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VA CLAIMS ADJUDICATION AND APPEALS PROCESS

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

MARCH 7, 2007

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VA CLAIMS ADJUDICATION AND APPEALS PROCESS

WEDNESDAY, MARCH 7, 2007

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:31 a.m., in room SR–418, Russell Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

Present: Senators Akaka, Rockefeller, Obama, Tester, Webb, and Craig.

OPENING STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN, U.S. SENATOR FROM HAWAII

Chairman AKAKA. This hearing of the Committee on Veterans' Affairs will come to order. Aloha and welcome to all of you. I am pleased that all of you can join us for today's hearing on the VA adjudication process.

Today's hearing will address a matter that has been an ongoing concern to this Committee and our Nation's veterans for many, many years: the timeliness and accuracy of the adjudication of veterans' disability claims.

In the last Congress, Chairman Craig held two hearings on the topic. While the Veterans Benefits Administration and the Board of Veterans' Appeals have made strides in recent years to make the claims adjudication operation more efficient and productive, we must admit that much work still needs to be done.

This year, GAO has once again designated VA's disability program as a high-risk area and in need of broad reform. Recent news stories, including most prominently a recent story in *Newsweek* magazine, have highlighted some of these shortcomings and contributed to the public perception that VA is failing to meet its obligations to our Nation's veterans.

The costs of caring for our veterans must be understood by Congress and the Administration as nothing short of an ongoing cost of war. Although the President's Fiscal Year 2008 budget request is a step in the right direction, it does not provide enough resources for adjudication personnel. As the veterans population continues to age and disabled veterans return home from Iraq and Afghanistan, VBA's workload will continue to increase in the coming years.

The time it takes to process a disability claim continues to be a matter of concern. While progress has been made in recent years, VBA remains nearly 2 months short of reaching its strategic goal of 125 days to process a claim. The majority Members of the Com-

mittee recommended an additional $40 million for VBA field offices and an additional $3.7 million for VBA above the President's budget request to hire new staff. We also endorsed increased funding for VA's training initiatives.

I am interested in hearing from Admiral Cooper about VBA's new policy of prioritizing claims from veterans of the Global War on Terror. I, again, thank you for being here today. I look forward to this hearing.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN, U.S. SENATOR FROM HAWAII

Aloha and welcome to all. I am pleased that you can join us for today's oversight hearing on the VA adjudication process. I look forward to having a constructive conversation with Admiral Cooper, Chairman Terry and our other witnesses.

Today's hearing will address a matter that has been an ongoing concern to this Committee and our Nation's veterans for many years—the timeliness and accuracy of the adjudication of veterans' disability claims. In the last Congress, Chairman Craig held two hearings on the topic.

While the Veterans Benefits Administration and the Board of Veterans' Appeal have made strides in recent years to make the claims adjudication operation more efficient and productive, much work still needs to be done. This year GAO has once again designated VA's disability program as a "high risk area" in need of broad reform.

Recent news stories, including, most prominently, a recent cover story in *Newsweek* magazine, have highlighted some of these shortcomings and contributed to the public perception that VA is failing to meet its obligations to our Nation's veterans. I am confident that the VA is fully committed to its mission, but there are areas where improvements must be made in order to better serve our veterans and restore the Nation's faith in the institutions charged with caring for them.

The cost of caring for our veterans must be understood by Congress and the Administration as nothing short of an ongoing cost of war. Although the President's Fiscal Year 2008 Budget Request is a step in the right direction, it does not provide enough resources for adjudication personnel. We must ensure that sufficient funding is available to provide veterans with timely and accurate responses to their claims. As the veterans' population continues to age and disabled veterans return home from Iraq and Afghanistan, VBA's workload will continue to increase in the coming years. Nevertheless, VA predicts that the number of new receipts will essentially flatline in Fiscal Years 2007 and 2008. I am concerned that this projection may underestimate VBA's workload. The most recent numbers indicate that through the first quarter of Fiscal Year 2007, VA has received 8 percent more claims than expected. Without prompt action, we will fail to keep our promise to provide timely and accurate decisions to veterans.

The time necessary to process a disability claim continues to be a matter of concern. While progress has been made in recent years, VBA remains nearly 2 months short of reaching its strategic goal of 125 days to process a claim. VA must find innovative ways to absorb the burdens of new legislation and court decisions, as well as the increasing complexity of claims filed.

The Democratic and Independent Members of the Committee recommended an additional $40 million for VBA field offices and an additional $3.7 million for BVA above the President's budget request to hire new staff. We also endorsed increased funding for VA's training initiatives. It takes approximately two years before a new hire fully contributes to the bottom line. Thus, proper funding and infrastructure for training must be in place before VBA finds itself dealing with an unexpected increase in its workload volume. We hope that these increases for staffing and training will be included in the Budget Resolution.

I am interested in hearing from Admiral Cooper and Mr. Terry on their plans to tackle both immediate and future challenges. I am particularly interested in hearing from Admiral Cooper about VBA's new policy of prioritizing claims from veterans of the Global War on Terror. How will this plan be implemented, and what impact it will have on claims process management at the regional office level? I am encouraged to hear that VA is committed to serving our veterans who have just returned from the battlefield, but we must also ensure that this policy does not adversely affect veterans of prior wars.

I again thank you for being here today. I look forward to our witnesses' testimony.

Chairman AKAKA. This is going to be a busy morning. Members are in other Committees at this moment, and they will be coming in as they come from other Committees. There will be votes as well. However, we will continue with the hearing. At this time I would like to call on Admiral Cooper for your testimony.

STATEMENT OF HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY MICHAEL WALCOFF, ASSOCIATE DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS; AND JACK McCOY, ASSOCIATE DEPUTY UNDER SECRETARY FOR POLICY AND PROGRAM MANAGEMENT

Mr. COOPER. Thank you, sir.

Mr. Chairman, Members of the Committee, it is my pleasure to be here today to discuss the Disability Compensation Program. I am pleased to be accompanied by Mr. Michael Walcoff, who is VBA's Associate Deputy Under Secretary for Field Operations, and Mr. Jack McCoy, the Associate Deputy for Policy and Program Management. And I will allow Judge Terry to introduce his particular people.

The Veterans Benefits Administration is responsible for administering a wide range of benefits and services for veterans, their families, and their survivors. The heart of our mission is the Disability Compensation Program.

In 2006, we produced over 774,000 disability determinations. We also performed more than 2 million decision actions of all types to address new claims and to maintain those already on the rolls. Additionally, we handled over 6.6 million phone calls, conducted over a million interviews, briefed more than 390,000 service personnel, and conducted 65,000 hours of outreach to military members, former prisoners of war, homeless, minorities, women, and other targeted groups.

Today I will try to discuss the challenges we face in providing timely, accurate, and consistent determinations for veterans' claims for disability compensation. I will also discuss some of the actions we are taking.

The number of veterans filing initial disability compensation claims and claims for additional benefits has increased every year since 2000. Disability claims from veterans of all eras increased from 578,700 in 2000 to 806,300 in 2006. Comparing those 2 years, 2000 and 2006, this represents an increase of 228,000 claims a year, or 38 percent.

Among the most important factors leading to the sustained high levels of claims activity are: Operations OIF and OEF, the present War on Terror; our increased and extensive outreach that we do; and the additional beneficiaries on the rolls who come in for additional claims and adjustments to their claims.

The absolute increase in claims is not the only change affecting the claims processing environment. As stated in the recent GAO report, the great number of disabilities that the average veteran now identifies, the increasing complexity of the disabilities that we see, and the changes in law and processes are additional challenges to the claims processing workload. The trend toward increasingly

complex and difficult-to-rate claims is expected to continue for the foreseeable future.

A significant portion of our workload comes from appeals of regional office decisions, remands from the board and from the court. A large portion of the work that we do, however, is in account maintenance activities for such things as dependency adjustments, death pension awards, income adjustments. As the overall claims increase, so do appellate and non-rating-related workloads.

To ensure accurate benefit decisions given the increases in both volume and complexity of the workload, we have established an aggressive and comprehensive program of quality assurance and oversight to assess compliance with VBA claims processing policy and procedures and to assure consistent application. Our quality over these last 5 years has improved approximately 8 to 9 percent.

It is critical that our employees receive the essential guidance, materials, and tools to meet the ever-changing and increasingly complex workload. The frequent changes in the benefits programs require that we have good, stable training. To that end, VBA has deployed new training tools and centralized training programs. We have standardized computer-based tools that we use for which each of our people has access. And, in addition, we have a mandatory cycle of training for all Veterans Service Center employees that has been developed consisting of 80 hours a year for their training.

To balance the inventory of disability claims across regional offices, we execute a "brokering" strategy in which rating claims are sent from those stations with high inventories to other stations with available capacity to process additional rating work. Brokering allows the organization to address simultaneously the local and the national inventory by maximizing the use of those available resources.

The consolidation of specialized processing operations to provide better and more consistent decisions is one of the acts that we have taken. Some of our consolidation efforts include establishment of the Pension Maintenance Centers at three sites; the Tiger Team that we have in Cleveland for veterans who are over 70 years old with claims pending of over a year; the Appeals Management center here in Washington, which takes the remands from the court. We have the Benefits Delivery at Discharge Program which has got into full functioning this year, and we have centralized all radiation claims in one specific regional office.

We are aggressively pursuing measures to decrease the pending inventory of disability claims and to shorten the time the veterans must wait, but our pending inventory right now is about 400,000 claims, and the average processing time—that is, time to complete—is about 175 days.

We are increasing staffing levels to reduce the pending inventory and to provide the level of service expected by the American people and our veterans. We began aggressively hiring additional staff in Fiscal Year 2006. We have increased the onboard strength between January of 2006 and January of 2007 by 580 employees. With a workforce that is sufficiently large, correctly balanced, and properly trained, VBA can successfully meet the needs of our veterans.

We will continue to accelerate hiring and fund additional training necessary for this new staff this fiscal year.

Since the onset of the combat operations in Iraq and Afghanistan, VBA has worked hard to expedite and case-manage services for those seriously injured Operations Iraqi and Enduring Freedom veterans and their families. This individualized service begins at the military medical facilities where the injured servicemembers return for treatment and continues as these servicemembers are medically separated and enter the VA medical care and benefits systems. We assign special benefits counselors, social workers, and case managers to work with these veterans and their families throughout the transition and to help ensure expedited delivery of benefits.

Last month, the Secretary directed that we start a new initiative to provide priority processing of all OIF/OEF veterans' disability claims. This will allow all of these brave men and women returning from the OIF/OEF theaters who were not seriously injured but who, nevertheless, have a disability incurred or aggravated during their military service to enter the VA system and begin receiving disability benefits as soon as possible after separation.

Last month, we began processing all disability compensation and pension claims received from OIF/OEF veterans on a priority basis.

Through these initiatives, VBA will address the challenges facing our organization and continue to improve claims processing. We will continue to assess our policies, processes, and approaches to take advantage of any improvement opportunities we can identify and to ensure that we are achieving the desired performance outcomes. It is vital that we improve production, but we must ensure that we maintain and continue to improve quality and consistency.

Mr. Chairman, that concludes my testimony. I greatly appreciate the chance to be here before you today.

[The prepared statement of Mr. Cooper follows:]

PREPARED STATEMENT OF HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman and Members of the Committee, it is my pleasure to be here today to discuss the Disability Compensation Program. I am pleased to be accompanied by Mr. Michael Walcoff, VBA's Associate Deputy Under Secretary for Field Operations, and Mr. Jack McCoy, VBA's Associate Deputy Under Secretary for Policy and Program Management.

The Veterans Benefits Administration (VBA) is responsible for administering a wide range of benefits and services for veterans, their families, and their survivors. We manage a life insurance program that consistently ranks among the best in the Nation. We promote home ownership through the loan guaranty program and help veterans and their dependents seek greater education and economic opportunities through the highly successful Montgomery GI Bill program and other educational programs. For qualifying veterans with disabilities, our Vocational Rehabilitation and Employment Program provides both rehabilitation and training and assists them in reentering the civilian workforce. We are proud of our achievements in all these vital areas.

The heart of our mission is the Disability Compensation Program. In Fiscal Year 2006, we produced over 774,000 disability determinations. We also performed more than two million decision actions of all types to address new claims and to maintain those already on the rolls. Additionally, we handled over 6.6 million phone calls; conducted over a million interviews; briefed more than 390,000 service persons; and conducted nearly 65,000 hours of outreach to military members, former prisoners of war, homeless, minorities, women, and other targeted groups.

Today, I will discuss the challenges we face in providing timely, accurate, and consistent determinations on veterans' claims for disability compensation. These challenges include the growth of the disability claims workload, the increasingly complex nature of that workload, the rise in appellate processing, and the absolute need to produce accurate benefit decisions. I will also discuss some of the actions we are

taking to improve claims processing. We view these efforts as opportunities to achieve greater processing efficiencies and, thus, to enhance service to veterans.

GROWTH OF DISABILITY CLAIMS WORKLOAD

The number of veterans filing initial disability compensation claims and claims for increased benefits has increased every year since Fiscal Year 2000. Disability claims from returning Afghanistan and Iraq war veterans as well as from veterans of earlier periods of war increased from 578,773 in Fiscal Year 2000 to 806,382 in Fiscal Year 2006. For Fiscal Year 2006 alone, this represents an increase of nearly 228,000 claims or 38 percent over the 2000 base year. It is expected that this high level of claims activity will continue over the next 5 years.

The primary factors leading to the sustained high levels of claims activity are: Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF); more beneficiaries on the rolls, with resulting additional claims for increased benefits; improved and expanded outreach to active-duty servicemembers, Guard and Reserve personnel, survivors, and veterans of earlier conflicts; and implementation of Combat Related Special Compensation (CRSC) and Concurrent Disability and Retired Pay (CDRP) programs by the Department of Defense (DOD).

Ongoing hostilities in Afghanistan and Iraq are expected to continue to increase the VA compensation workload. Earlier studies by VA indicate that the most significant indicator of new claims activity is the size of the active force. Over 1.45 million active-duty servicemembers, members of the National Guard, and reservists have thus far been deployed in the Global War on Terrorism. Over 685,000 have returned and been discharged.

Whether deployed to foreign-duty stations or maintaining security in the United States, the authorized size of the active force as well as the mobilization of thousands of citizen soldiers means that the size of the force on active duty has significantly increased. The claims rate for veterans of the Gulf War Era, which began in 1991 and includes veterans who are currently serving in Operations Enduring Freedom and Iraqi Freedom, is significant. Veterans and survivors of the Gulf War Era currently comprise the second largest population of veterans receiving benefits after Vietnam Era veterans.

The number of veterans receiving compensation has increased by almost 400,000 since 2000—from just over 2.3 million veterans to nearly 2.7 million in 2006. This increased number of compensation recipients, many of whom suffer from chronic progressive disabilities such as diabetes, mental illness, and cardiovascular disabilities, will continue to stimulate more claims for increased benefits in the coming years as these veterans age and their conditions worsen. Reopened disability compensation claims currently comprise 54 percent of VBA's disability claims receipts.

Additionally, an increase in claimants and beneficiaries on the rolls has a direct relationship to the workload in the public contact area of telephone interviews, personal interviews, and correspondence, including electronic correspondence. Veterans Service Center employees in the regional offices last year conducted over six million telephone interviews and one million personal interviews.

VA is committed to increased outreach efforts to active-duty personnel. These outreach efforts result in significantly higher claims rates. Original claim receipts increased from 111,672 in Fiscal Year 2000 to 217,343 in Fiscal Year 2006—a 95 percent increase. We believe this increase is directly related to our aggressive outreach programs; we believe this increasing trend will continue.

Separating military personnel can receive enhanced services through our Benefits Delivery at Discharge (BDD) Program. On either a permanent or itinerant basis, VBA staff members are stationed at 140 military discharge points around the Nation, as well as in Korea and Germany. Additionally, VBA employees conduct transition assistance briefings in Germany, Italy, Korea, England, Japan, Okinawa, and Spain, and occasionally aboard ship as servicemembers return to the United States.

Combat-Related Special Compensation (CRSC), a benefit available from DOD for certain military retirees with specific qualifying combat-related disabilities defined by statute, became effective July 1, 2003, and was later expanded effective January 1, 2004. Today, more than 54,000 military retirees receive this benefit. This benefit and Concurrent Retired and Disability Pay (CRDP), another DOD program that permits partial to total restoration of retired pay previously waived to receive VA compensation, further contribute to increased claims activity for VBA.

It is now potentially advantageous for the majority of our military retirees, even those with relatively minor disabilities, to file claims with VA and to receive VA disability compensation, since their waived retired pay may be restored and not be subject to waiver in the future. Approximately 194,000 retirees receive CRDP. The number of military retirees receiving VA compensation has increased since the ad-

vent of these programs to over 840,000. There is also now significant incentive for retirees receiving compensation to file claims for increased VA benefits, as the increased amounts may also no longer be subject to offset. The total number of retirees as of the end of Fiscal Year 2006 was approximately two million, meaning that over 40 percent of all U.S. military retirees now receive VA benefits.

COMPLEXITY OF CLAIMS PROCESSING WORKLOAD

The increase in claims receipts is not the only change affecting the claims processing environment. The greater number of disabilities veterans now claim, the increasing complexity of the disabilities being claimed, and the changes in law and processes pose additional challenges to the claims processing workload. The trend toward increasingly complex and difficult-to-rate claims is expected to continue for the foreseeable future.

A claim becomes more complex as the number of directly claimed conditions (issues) increases because of the larger number of variables that must be considered and addressed. Multiple regulations, multiple sources of evidence, and multiple potential effective dates and presumptive periods must be considered. The effect of these factors increases proportionately and sometimes exponentially as the number of claimed conditions increases. Additionally, as the number of claimed conditions increases, the potential for additional unclaimed but secondary, aggravated, and inferred issues increases as well, further complicating the preparation of adequate and comprehensive Veterans Claims Assistance Act of 2000 (VCAA) notice and rating decisions. Since veterans are able to appeal decisions on specific disabilities to the Board of Veterans' Appeals (Board) and the United States Court of Appeals for Veterans Claims (CAVC), the increasing number of claimed conditions significantly increases the potential for appeal.

VA's experience since 2000 demonstrates that the trend of increasing numbers of conditions claimed is system-wide, not just at special intake locations such as BDD sites. The number of cases with eight or more disabilities claimed increased from 21,814 in Fiscal Year 2000 to 51,260 in Fiscal Year 2006, representing a 135 percent increase over the 2000 base year and a 15 percent increase over Fiscal Year 2005.

Combat and deployment of U.S. Forces to underdeveloped regions of the world have resulted in new and complex disability claims based on environmental and infectious risks, traumatic brain injuries, complex combat injuries involving multiple body systems, concerns about vaccinations, and other variabilities.

In addition, the aging of the veteran population that is service connected for diabetes adds to the complexity of claimed disabilities. Approximately 253,000 veterans are service connected for diabetes, with more than 220,000 of these awards based upon the presumption of herbicide exposure in Vietnam. As veterans with diabetes reach and move past the 10-year point since the initial diagnosis, additional secondary conditions tend to become manifest. VA has already begun seeing increasingly complex medical cases involving neuropathies, vision problems, cardiovascular problems, and other issues directly related to diabetes. If secondary conditions are not specifically claimed by a veteran, the rating specialist must be alert to identify them. This increasing complexity of the disabilities adds to the increased difficulty of our workload and the resources needed to adequately process it.

The number of veterans submitting claims for post-traumatic stress disorder (PTSD) has grown dramatically and contributed to increased complexity in claims processing. From Fiscal Year 2000 through Fiscal Year 2006, the number of veterans receiving compensation for PTSD has increased from more than 130,000 to nearly 270,000. These cases present unique processing requirements to obtain the evidence needed to substantiate the event causing the stress disorder.

The Veterans Claims Assistance Act (VCAA) has significantly increased both the length of time and the specific requirements of claims development. VA's notification and development duties increased as a result of VCAA, adding more steps to the claims process and lengthening the time it takes to develop and decide a claim. Since enactment, we are required to review the claims at additional points in the decision process. Mistakes due to failure to address all issues or an incomplete understanding of the claim when initially developed have resulted in significant rework and remands from the Board of Veterans' Appeals and the United States Court of Appeals for Veterans Claims.

VCAA requires VA to provide written notice to claimants of the evidence required to substantiate a claim and of which party (VA or the claimant) is responsible for acquiring that evidence. Under VCAA, VA's "duty to assist" the claimant in perfecting and successfully prosecuting his or her claim extends to obtaining government records, assisting with getting private records, and obtaining all necessary

medical examinations and medical opinions. As a claim progresses, additional notifications to the veteran may be required.

APPELLATE AND NON-RATING WORKLOAD

A significant portion of VBA's workload comes from appeals of regional office decisions, remands by the Board and the CAVC, and account maintenance activities for beneficiaries already receiving benefits. As overall claim receipts increase, so do appellate and non-rating related workloads.

As VBA renders more disability decisions, a natural outcome of that process is more appeals filed by veterans and survivors who disagree with some part of the decision made in their case. Veterans can appeal decisions denying service connection for any conditions claimed. They may also appeal the effective date of an award and the evaluation assigned to a disability.

Appeals of regional office decisions and remands by the Board and the CAVC following appeal are some of the most challenging types of cases to process because of their complexity and the growing body of evidence necessary to process these claims. In recent years, the appeal rate on disability determinations has climbed from an historical rate prior to 2000 of approximately 7 percent of all disability decisions to the current rate of 11 percent. There are more than 130,000 appeals now pending in the regional offices and the Appeals Management Center. This number includes cases requiring processing prior to transfer of the appeal to the Board and cases remanded by the Board and the CAVC following an appeal. There are over 30,000 additional appeals pending at the Board of Veterans' Appeals.

In 2006, VA completed over two million award actions of all types. Of that number, more than 774,000 were award actions in connection with disability rating decisions, and the remaining were associated with account maintenance (dependency adjustments, death pension awards, income adjustments, etc.). The number of veterans on our rolls has increased by nearly 400,000 in recent years, and the total number of veterans and survivors on our rolls is now over 3.6 million. The combination of the higher number of beneficiaries presently on our rolls and the sustained and projected high levels of new claims activity will result in continued growth in account maintenance activities.

CLAIMS PROCESSING IMPROVEMENT (CPI) MODEL

A product of the VA Claims Processing Task Force, established by former Secretary of Veterans Affairs Anthony J. Principi, was the implementation of the Claims Processing Improvement (CPI) model. The CPI implementation established consistent organizational structure and work processes across all regional offices. Work processes were reengineered and specialized teams established to reduce the number of tasks performed by individual decisionmakers, establish consistency in work flow and process, and incorporate a triage approach to incoming claims.

We continually review the CPI model based upon feedback from regional offices, the needs of the organization, and the timeliness and quality improvements we seek. The changing workload and workforce have necessitated a review of the model to ensure the most effective method of organizing work and resources to maximize performance. The CPI Model Task Force was assembled in January 2006 to reevaluate the CPI model to assess its overall effectiveness and improve consistency and efficiency in claims processing. The CPI Task Force solicited recommendations and rationale for changes to the CPI model from all regional office leadership. Interviews with field station management, reviews of recent site-visit reports and CPI deviation requests, and analyses of other pertinent documents were conducted. The final recommendations of the Task Force are currently being studied in pilot programs at select regional offices.

CLAIMS PROCESSING ACCURACY

To ensure accurate benefit decisions, given the increases in volume and complexity of the workload, we have established an aggressive and comprehensive program of quality assurance and oversight to assess compliance with VBA claims processing policy and procedures and assure consistent application.

The Systematic Technical Accuracy Review (STAR) program includes review of work in three areas: rating accuracy, authorization accuracy, and fiduciary program accuracy. Overall station accuracy averages for these three areas are included in the regional office director's performance standard and the station's performance measures. STAR results are readily available to facilitate analysis and to allow for the delivery of targeted training at the regional office level. C&P Service conducts satellite broadcast training sessions based on an analysis of national STAR error trends.

In addition to the STAR program, C&P Service identifies unusual patterns of variance in claims adjudication by diagnostic code, and then reviews selected disabilities to assess the level of decision consistency among and between regional offices. These studies are used to identify where additional guidance and training are needed to improve consistency and accuracy, as well as to drive procedural or regulatory changes. Over the last 4 years, our quality has risen significantly from 81 percent to 89 percent.

Site surveys of regional offices address compliance with procedures, both from a management perspective in the operation of the service center and from a program administration perspective, with particular emphasis on current consistency issues. Training is provided, when appropriate, to address gaps identified as part of the site survey.

TRAINING

It is critical that our employees receive the essential guidance, materials, and tools to meet the ever-changing and increasingly complex demands of their decisionmaking responsibilities. To that end VBA has deployed new training tools and centralized training programs that support accurate and consistent decisionmaking.

New hires receive comprehensive training and a consistent foundation in claims processing principles through a national centralized training program called "Challenge." After the initial centralized training, employees follow a national standardized training curriculum (full lesson plans, handouts, student guides, instructor guides, and slides for classroom instruction) available to all regional offices. Standardized computer-based tools have been developed for training decisionmakers (69 modules completed and an additional 8 in development). Training letters and satellite broadcasts on the proper approach to rating complex issues are provided to the field stations. In addition, a mandatory cycle of training for all Veterans Service Center employees has been developed consisting of an 80-hour annual curriculum.

DISTRIBUTION OF RATING WORKLOAD

To balance the inventory of disability claims across regional offices, VBA implemented a "brokering" strategy in which rating cases are sent from stations with high inventories to other stations with the capacity to process additional rating work. Brokering allows the organization to address simultaneously the local and national inventory by maximizing use of available resources.

Brokering plans are developed on a monthly basis. Stations are selected for brokering based on the percentage gap between their current inventory of pending claims and their established end-of-year inventory target. Stations with the greatest percentage gap are asked to send ready-to-rate cases to other stations for rating decisions. The stations participating in brokering changes over time as stations are able to bring the pending inventory in line with established targets.

CONSOLIDATION OF SPECIALIZED OPERATIONS

The consolidation of specialized processing operations for certain types of claims has been implemented to provide better and more consistent decisions. Three Pension Maintenance Centers were established to consolidate the complex and labor-intensive work involved in ensuring the continued eligibility and appropriateness of benefit amounts for pension recipients. We are exploring the centralization of all pension adjudications in these Centers.

In November 2001, a Tiger Team was established at the Cleveland Regional Office to adjudicate the claims of veterans age 70 and older. VBA has also established an Appeals Management Center to consolidate expertise in processing remands from the Board of Veterans' Appeals. In a similar manner, a centralized Casualty Assistance Unit was established to process all in-service death claims. VBA has also centralized the processing of all pending radiation claims to the Jackson RO. The BDD program provides servicemembers with briefings on VA benefits, assistance with completing forms, and a disability examination before leaving service. The goal of this program is to deliver benefits within 60 days following discharge. VBA has consolidated the rating aspects of our BDD initiatives, which will bring greater consistency of decisions on claims filed by newly separated veterans. We also established two Development Centers in Phoenix and Roanoke to assist regional offices in obtaining the required evidence and preparing cases for decision.

We are looking for ways to achieve additional organizational efficiencies through consolidation of other aspects of our claims processing, including death benefits, fiduciary activities, and telephone service.

INVENTORY REDUCTION

VBA is aggressively pursuing measures to decrease the pending inventory of disability claims and shorten the time veterans must wait for decisions on their claims.

Our pending inventory of rating related claims is currently about 400,000 claims, and average processing time is 175 days. However, all 400,000 claims in our inventory should not be considered as "backlog"; this number includes all claims, whether pending only a few days or a number of months. Under the very best of circumstances, it takes about 4 months to fully develop a claim (obtain military and private medical records, schedule necessary medical examinations and receive results, evaluate evidence, etc.). Based on our projected receipts of 800,000 claims and our timeliness performance target of 145 days, our expected level of pending inventory with no backlog would be approximately 318,000 claims.

We are increasing staffing levels to reduce the pending inventory and provide the level of service expected by the American people. We began aggressively hiring additional staff in Fiscal Year 2006, increasing our on-board strength by over 580 employees between January 2006 and January 2007. With a workforce that is sufficiently large and correctly balanced, VBA can successfully meet the needs of our veterans.

Our plan is to continue to accelerate hiring and fund additional training programs for new staff this fiscal year. However, because it requires an average of 2 or 3 years for our decisionmakers to become fully productive, increased staffing levels do not produce immediate production improvements. Performance improvements from increased staffing are more evident in the second and third years. We have therefore also increased overtime funding this year and recruited retired claims processors to return to work as reemployed annuitants in order to increase decision output.

PRIORITY PROCESSING FOR OIF/OEF VETERANS

Since the onset of the combat operations in Iraq and Afghanistan, VA has provided expedited and case-managed services for all seriously injured Operations Iraqi and Enduring Freedom (OIF/OEF) veterans and their families. This individualized service begins at the military medical facilities where the injured servicemembers return for treatment, and continues as these servicemembers are medically separated and enter the VA medical care and benefits systems. VA assigns special benefits counselors, social workers, and case-managers to work with these servicemembers and their families throughout the transition to VA care and benefits systems, and to ensure expedited delivery of all benefits.

The Secretary of Veterans Affairs recently announced a new initiative to provide priority processing of all OIF/OEF veterans' disability claims. This will allow all the brave men and women returning from the OIF/OEF theaters who were not seriously injured in combat, but who nevertheless have a disability incurred or aggravated during their military service, to enter the VA system and begin receiving disability benefits as soon as possible after separation.

Last month, we began processing disability compensation and pension claims received from OIF/OEF veterans on a priority basis. This initiative covers all active duty, National Guard, and Reserve veterans who were deployed in the OIF/OEF theaters or in support of these combat operations, as identified by the Department of Defense (DOD).

We have designated our two Development Centers in Roanoke and Phoenix and three of our Resource Centers as a special "Tiger Team" for processing OIF/OEF claims. The two Development Centers will obtain the evidence needed to properly develop the OIF/OEF claims. The three Resource Centers, located in Muskogee, San Diego, and Huntington, will rate OIF/OEF claims for regional offices with the heaviest workloads. Medical examinations needed to support OIF/OEF veterans' claims are also being expedited.

We are expanding our outreach programs for National Guard and Reserve components and its participation in OIF/OEF community events and other information dissemination activities. An OIF/OEF Team is being established at VBA Headquarters to address all OIF/OEF operational and outreach issues at the national level and to support and assist newly designated OIF/OEF Managers at each regional office. The VBA OIF/OEF Team will also direct and coordinate national Memoranda of Understanding (MOU) with each of the Reserve Components to formalize relationships with them, mirroring the agreement between VA and the National Guard Bureau signed in 2005. Having an MOU with each Reserve Component will ensure that VA is provided service medical records and notified of "when and where" Reserve members are available to be briefed during the demobilization process and at later times.

In order to ensure that VA benefits information is provided to all separating Guard and Reserve servicemembers, we will work with DOD to discuss the possibility of expanding VA's role in DOD's military pre-separation process. Specifically, we will assess the feasibility of providing a new "Claims Workshop" in conjunction with VA benefits briefings. At such workshops, groups of servicemembers would be instructed on how to complete the general portions of the VA application forms. Following the general instruction segment, personal interviews would be conducted with those applying for individual VA benefits.

Mr. Chairman, this concludes my testimony. I greatly appreciate being here today and look forward to answering your questions.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. AKAKA TO HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Question 1. It seems clear that the Department of Defense is keeping injured servicemembers on active duty longer than they have in the past. What, if any, impact does this have on VA's effort to provide timely and accurate adjudication of disability claims?

Response. The Department of Veterans Affairs (VA) disability compensation may not be paid to servicemembers while on active duty, therefore the length of time on active duty does not directly affect timeliness of claims processing. Since the onset of combat operations in Afghanistan and Iraq, we have provided case-managed services to all seriously injured servicemembers returning from combat zones, and we have made the processing of their claims our highest priority. We have assigned benefits counselors to the 10 major military treatment facilities (MTF), including Walter Reed Army Medical Center. The counselors work with the injured servicemembers, the military, the Veterans Health Administration, and family members to explain benefits, assist in completing claims, and gather supporting medical records and other evidence for the servicemembers' claims for disability compensation so that VA disability benefits can be awarded immediately following separation from service.

The involvement of benefits counselors early in the transition also allows VA to provide some benefits, such as the Traumatic Servicemembers' Group Life Insurance (TSGLI), automobile and adaptive equipment, and specially adapted housing benefits, to eligible servicemembers while still on active duty.

As servicemembers are transferred from MTFs to other Department of Defense (DOD) facilities or VA care, the benefits counselors notify the appropriate regional office of the transfer. All regional offices have established points of contact with the MTFs and VA medical centers in their jurisdiction to ensure prompt notification of arrival, transfer, and discharge of seriously injured servicemembers. All regional offices have also designated Operation Enduring Freedom/Operation Iraqi Freedom (OEF/OIF) case managers, who maintain regular contact with injured servicemembers and veterans to ensure their needs are being met.

Each claim from a seriously injured OEF/OIF veteran is case-managed to ensure expeditious processing. The regional office directors call these seriously injured veterans to welcome them home and advise them that the OEF/OIF case manager will assist them through the claims process.

Question 2. Please provide to me any written guidance that has been given to the field regarding the priority processing of claims from veterans of the Global War on Terror.

Response. All VA regional offices have been provided written guidance regarding the requirements to expedite processing of all OEF/OIF claims. Copies of two Veterans Benefits Administration (VBA) letters providing instructions to the regional offices, dated March 8, 2005 and January 30, 2007, are attached.

[Copies of the Veterans Benefits Administration letters providing instructions to the regional offices follow:]

Attachments to Akaka Question 2

DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

March 8, 2005

VBA Letter 20-05-14

Director (00)
All VA Regional Offices

SUBJ: Operation Enduring Freedom & Operation Iraqi Freedom

Purpose

This letter provides updated information and instructions for outreach and claims processing procedures for casualties resulting from Operations Enduring Freedom and Iraqi Freedom (OEF/OIF). VBA Letter 20-03-36, dated September 23, 2003, provided information on outreach, coordination, and claims processing for OEF/OIF service members and veterans. Since the letter was issued, the need to clarify and provide more detailed information on the management of cases of seriously disabled service members and veterans has become more apparent. VBA Letter 20-03-36 is rescinded and replaced by this letter.

Definitions

To assist you in determining OEF/OIF cases that should be case managed, the following are definitions of terms used in this letter.

"OEF/OIF casualty" is a disability or death that resulted from participation in a theater of combat operations, or from combat against a hostile force during a period of hostilities.

"Theater" is a place of hostilities.

"Hostilities" are a conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces are subjected in a theater of combat operations during a period of war.

"Service member" is an OEF/OIF participant either on active military duty or already discharged from the military (veteran).

Directors (00)

"Serious disability" is injury to or illness of a service member that definitely or possibly will result in discharge from military service. The Department of Defense (DoD) currently classifies injuries and illnesses as "VSI" for very serious, "SI" for serious, "SPC" for special category person where there has been a loss of a body part, and "NSI" for not serious. At a minimum, all service members in VSI, SI and SPC status should be considered seriously disabled for VA purposes. Service members identified as NSI should be contacted and assisted but will not require case management unless their condition warrants.

Priorities

It is vital that we continue to ensure that all returning disabled service members receive every possible assistance from the entire Department. Organize and prepare personnel and operations to handle any claims, including those that may occur as a result of mass casualties. All personnel must cooperate and coordinate with those from other divisions or offices who are directly involved in providing benefits and services, including medical care, for these service members.

Each regional office has designated an OEF/OIF Coordinator and alternate to act as liaison with VA medical facilities, military facilities, and other RO divisions. VA medical centers have also provided their contacts serving in this capacity. Both VBA and VHA coordinators are listed on the Compensation and Pension Service Outreach intranet site at http://vbaw.vba.va.gov/b1/21/outreach/index.htm .

Meetings should be scheduled among VBA, VHA, and DoD officials to share information in order to facilitate outreach, coordination and expeditious claims processing for all OEF/OIF veterans.

Procedures

This letter contains the following enclosures.

Enclosure A	Outreach, Coordination and Case Management for Seriously Disabled Service Members/Veterans (renamed and revised)
Enclosure B	Compensation Claims Processing Procedures
Enclosure C	Education Procedures
Enclosure D	Loan Guaranty Procedures
Enclosure E	Vocational Rehabilitation & Employment Procedures

Enclosure F	Insurance Procedures
Enclosure G	Debt Collection Procedures
Enclosure H	Instructions for Completing VA Form 21-0773, *Operation Iraqi Freedom/Operation Enduring Freedom Seriously Injured/Ill Service Member/Veteran Worksheet*

OFO letter 20F-05-01 dated November 25, 2004, provided information and instructions for tracking case-managed claims of OEF/OIF casualties. To ensure effective coordination of services and procedures, Regional Office Directors, Veterans Service Center Managers, OEF/OIF Coordinators and OEF/OIF Case Managers must thoroughly read and understand the information in the enclosures and OFO letter.

Liaison with Military Medical Facilities and Reserve/Guard Units

It is critically important that regional offices establish and maintain liaison with local military medical facilities to ensure timely notification of casualty arrivals and to develop procedures for scheduling ward visits. It is also important that regional offices work closely with Reserve/Guard Units to schedule benefits briefings for units being activated and/or demobilized as part of OEF/OIF, and to coordinate outreach efforts with VA healthcare facilities and for expeditious case management of claims for seriously disabled service members.

Interviews

All interviews with disabled OEF/OIF service members, including their families, must be recorded on VA Form 21-7288a, *Record of Veterans Assistance Interviews*, or an equivalent electronic form, exclusively for OEF/OIF. For workload purposes, most if not all of these interviews should be reported as away-from-office interviews. These forms (logs) must be available for immediate submission to Central Office, if requested. VBA will provide reports on the support provided to OEF/OIF service members to the Secretary, Congress, and other interested parties, as requested. The requirement to log all
OEF/OIF interviews for workload purposes are in addition to other OEF/OIF worksheets and reports required by this letter.

Death Cases

The special outreach and claims processing procedures outlined in VBA Letter 20-02-28 dated July 17, 2002, *Casualty Assistance Program Procedures*, will be followed for all in-service deaths. This letter outlines procedures for live casualties only.

Questions

Please direct questions concerning this letter to Jenny Sisk or Jada Jones by e-mail or by telephone at (202) 273-7259.

/s/
Daniel L. Cooper
Under Secretary for Benefits

Enclosures

Enclosure A

OUTREACH, COORDINATION AND CASE MANAGEMENT FOR SERIOUSLY DISABLED SERVICE MEMBERS AND VETERANS

General

This enclosure contains information and instructions on essential services we must provide to service members seriously disabled as a result of service in OEF/OIF theaters.

The designated Veterans Service Center Coordinator for all OEF/OIF outreach activities should also be the primary VBA point of contact for seriously disabled service members who arrive in the RO's area of jurisdiction as patients.

For each compensation claim received for a seriously disabled OEF/OIF service member, a VSC Case Manager must be assigned. The Case Manager should then be the primary VBA point of contact; however, the Coordinator may continue to be involved if the service member is still a patient. In those cases, coordination between the Coordinator and Case Manager is essential. The Case Manager must continue to manage any subsequent or reopened claim(s) received from the claimant until further notice from CO.

Directors and VSC Managers must be significantly engaged in outreach and the management of these claims. Their basic responsibilities and those of Coordinators and Case Managers are listed below.

Service Member Status

When Central Office begins to receive a reliable flow of data on disabled service members returning from OEF/OIF theaters, Compensation and Pension Service will disseminate that information to ROs. In the meantime, RO staff must rely on information derived from their outreach, liaison and coordination with military and VA medical staffs in their area.

Directors

Each director must ensure that:

- An OEF/OIF Coordinator and an alternate are designated, and that Central Office is immediately notified of any change (email to VAVBAWAS/CO/OUTREACH). Their names, titles, and telephone numbers must be included.
- An OEF/OIF Case Manager is assigned for each compensation claim received for a seriously disabled OEF/OIF service member.

a seriously disabled OEF/OIF service member.

- Points of contact are established with military and VA medical facilities, and other military installations in the RO's jurisdiction for outreach and coordination for seriously disabled OEF/OIF service members.
- Benefits education and delivery are coordinated *and case managed* for those service members.
- Outreach efforts are coordinated with the local region's Public Affairs Office (OPA) and OPA's expertise is used when interacting with the news media.
- The Director or Assistant Director call returning seriously disabled service members when they first arrive in the RO's jurisdiction to welcome them home and advise them that they will be contacted by the OEF/OIF Coordinator or a Case Manager.

Veterans Service Center Managers

Each VSC Manager must ensure that:

- An outreach letter is sent to each seriously disabled service member arriving in the RO's jurisdiction that provides an overview of VA benefits and services and offers assistance. The letter must include all appropriate benefit application forms for which a claim has not been received; it also includes a VA Pamphlet 21-01-1, *A Summary of VA Benefits*.
- All compensation claims received for seriously disabled service members are entered on an OEF/OIF log for control, case management and reporting purposes. Information for the OEF/OIF log is updated routinely.
- Each claim is placed under control immediately upon receipt and in no case more than two workdays after receipt.
- The status of all pending claims is reviewed on a weekly basis, and appropriate action taken when necessary in order to expedite processing.
- All VSC staff members who conduct personal and telephone interviews receive training on interacting with seriously disabled service members.
- All staff members who counsel these service members and their families are fully knowledgeable and conversant on VA benefits and services as well as those administered by other Federal agencies such as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, Combat Related Special Compensation, etc.
- Claims development, including any exam request, is initiated immediately and in no case more than two workdays after receipt of the claims folder.

Coordinators

Although each RO is required to have an OEF/OIF Coordinator and alternate, it is recognized that more than one employee may be providing services to seriously disabled OEF/OIF patients. Each OEF/OIF Coordinator and other employees providing such services will ensure that:

- Liaison is established with military and VA medical facility staff, in particular the discharge planners, in order for our outreach efforts and coordination to be effective. Rapport is developed with them so that VA has access to admission and discharge information as seriously disabled service members are admitted, transferred to another medical facility, and finally released.
- Service members in military or VA medical facilities are visited when medically feasible. They are made aware of all potential VA benefits and services as well as other benefits and services available through other sources. They are assisted in completing their claims and gathering supporting evidence.
- Service members are provided a copy of the VA Life Insurance Outreach Brochure "Plan Today, Protect Tomorrow."
- Service members who have statutory injuries should be provided with applications for Service-Disabled Veterans' Insurance (29-4364) and Servicemembers' Group Life Insurance Disability Extension (SGLV – 8715) and told that both programs of insurance will be free to them.
- While service members are hospitalized, they are routinely informed about the status of all of their pending claims.
- Patient status is routinely confirmed for each of those service members (i.e., medical condition, treatment phase, anticipated date of hospital discharge, duty status, etc.).
- Service members are given a business card that contains the Coordinator's name and contact information such as a telephone number.
- As necessary, service members' family are informed about benefits and services, and their assistance is solicited when necessary.
- Service members are given VA contact information for the new RO's Coordinator or Case Manager when they are being transferred to another medical facility, released to return home, or awaiting discharge/retirement orders. The reverse of the Coordinator's business card may be used for that purpose.
- Weekly status reports are submitted to the RO with case information on service provided to seriously disabled service members.
- A VA Form 21-0773, *Operation Iraqi Freedom/Operation Enduring Freedom Seriously Injured/Ill Service Member/Veteran Worksheet*, is generated and

updated for each seriously disabled patient. Each case is diaried for necessary follow up interview or other action, and the VAF 21-0773 is updated accordingly (see Enclosure H).

- Compensation claims taken for the seriously disabled are expedited to the appropriate RO with the VA Form 21-0773, and a clear indication that they are for an OEF/OIF seriously disabled claimant. A copy of the form is retained by the releasing coordinator.
- The appropriate RO Coordinator is alerted about actual or imminent transfer of seriously disabled patients to a military or VA medical facility within the RO's jurisdiction. The original VA Form 21-0773 is expedited to the receiving Coordinator by the releasing Coordinator. If the original was previously submitted to an RO with a claim, a copy of the releasing coordinator's VAF 21-0773 is sent to the receiving coordinator.
- The VHA Point of Contact (POC) for those patients' new area is alerted about the transfer whether or not the receiving facility is military or VA.
- If a compensation claim is being processed locally or compensation has been awarded, the releasing RO is alerted about the patient transfer in order to effect transfer of the claims file and VA Form 21-0773.
- When contacted by VHA's Catastrophically Disabled POC (CDPOC), provide assistance and guidance to that POC regarding VBA benefits and services. (VHA has developed this designation of a point of contact for service members or veterans who are so catastrophically disabled that they need special assistance. VHA's CDPOC, due to the seriousness of the individual's medical condition, will assist family members in the best interest of the service member or veteran. VHA has been advised that CDPOCs should contact their local RO OEF/OIF Coordinator for any assistance with VBA-related issues regarding these catastrophically disabled individuals.)

Case Managers

Each Case Manager must assure that:

- He or she communicates directly with claimants, as necessary, regarding the development and status of their compensation claim. (For claimants who are still inpatients, communications are coordinated with the Coordinator or other employee servicing the medical facility.)
- All assigned compensation claims are tightly controlled and expeditiously processed.
- Service members are assisted with claims for other VA and non-VA benefits and services.

- The VA Insurance Center Outreach Team receives a copy of all rating information for veterans who served in OIF/OEF and who received service-connected disability ratings for the following conditions: the permanent loss or loss of use of both feet, both hands, or both eyes; the permanent loss or loss of use of one foot and one hand, one foot and one eye, or one hand and one eye; the total loss of hearing of both ears; or the organic loss of speech. These veterans are eligible for various VA insurance benefits. The rating information should be sent electronically to VAVBAPHI/IC/29/29A.
- Claimants are routinely informed about the status of all of their pending claims.
- VA Form 21-0773, *Operation Iraqi Freedom/Operation Enduring Freedom Seriously Injured/Ill Service Member/Veteran Worksheet* is maintained with the claims file and updated through final case disposition.
- For claimants who move to another jurisdiction, the receiving RO is alerted and the claims file and original VA Form 21-0773 are expedited to the receiving RO with a clear indication that they are for an OEF/OIF seriously disabled claimant.
- The VHA POC for the claimant's new area is alerted about the transfer whether or not the claimant is an inpatient at that VHA facility.

Disposition of VA Form 21-0773

After outreach and case management actions have been finalized on each case, the VA Form 21-0773 will be retained in a temporary file in the VSC. The form should not be permanently filed in the claims folder. For clarification: once the form is generated for a seriously disabled individual, the original will be retained by either the Coordinator (up to receipt of a compensation claim) or the Case Manager (upon receipt of a compensation claim), then it will be filed in the VSC. At a later date, Central Office will provide instructions on ultimate disposition of completed forms.

Questions

Please direct questions concerning this letter by e-mail to VAVBAWAS/CO/OUTREACH.

COMPENSATION CLAIMS PROCESSING PROCEDURES

Death Cases

VBA Letter 20-04-37, *Casualty Assistance Program Procedures*, dated September 29, 2004, will be followed. The Philadelphia Regional Office and Insurance Center will perform centralized processing for Dependency and Indemnity Compensation (DIC) claims and local ROs will provide the required outreach services for surviving spouses and dependents. If necessary, staff from the Philadelphia Resource Center will be diverted to assist in processing these claims.

Priority Procedures

Our goal is to award benefits within 30 days from the date of receipt of claims for compensation (if the service member has been discharged from the military), and within 48 hours of receipt of claims for DIC.

Each RO shall establish local procedures for handling these claims on a priority basis. Routine mail routing will not be used. Applications and claims folders will be hand –carried from one element to another within the Veterans Service Center (VSC) as well as between the other divisions within the RO.

Be sure the claimant is discharged from military service prior to awarding benefits. Service members may receive medical treatment at a VA or Department of Defense medical facility for several months before actual separation from military service.

Triage Team

Establish appropriate end product control for all claims within two working days of receipt. These cases should be tightly controlled until final action is taken.

Attach a brightly colored tag along the long side of the claims file's left flap. The tag will be annotated "Operation Enduring Freedom" or "Operation Iraqi Freedom" and should be easily visible as the file is stored. Keep this tag/flash affixed to the file until further notice by Central Office.

A log of these cases must be maintained until automated identification procedures are developed by VA Central Office. This log should be immediately available for submission to VACO upon request.

The Triage Team's Rating Veterans Service Representative (RVSR) may rate the claim if it is accompanied by sufficient evidence, and pulling the claims file is not required. See the topics "Rating Team" and "Claims for Vocational Rehabilitation and Employment (VR&E)" below for further instructions.

Transfer of Claims Folders and Evidence

The RO receiving the VA Form 21-526, *Veteran's Application for Compensation or Pension*, and/or VA Form 28-1900, *Disabled Veteran's Application for Vocational Rehabilitation*, determines jurisdiction based on the home address of record. If a claims folder already exists, but is located at another RO, expedited transfer must be requested. Request transfer of the folder by telephone or electronic mail (e-mail). Identify the case as an Operation Enduring Freedom or Operation Iraqi Freedom claim and request immediate transfer by overnight express mail. If the application is the proper jurisdiction of another RO, it should be promptly forwarded. If the service member is hospitalized in the jurisdiction of the receiving RO, that office should process the claim and not transfer the claims file to the RO based on the veteran's home of record.

The emphasis is to process the claim at the earliest stage possible. If the individual is discharged from a medical treatment facility to another area of jurisdiction before a decision is made and there is sufficient evidence, rate the claim before transferring the claims folder. When transferring a claims folder between offices, make sure the flash identifying the claims file as an OEF/OIF case is attached to the file. Also, the original VA Form 21-0773, *Operation Iraqi Freedom/Operation Enduring Freedom Seriously Injured/Ill Servicemember/Veteran Worksheet*, should be included with the claims file.

If the claims folder is located at the Records Management Center (RMC) in St. Louis, use e-mail to request the file. The RMC has established a new mailbox to expedite the shipment of claims folders pertaining to OEF/OIF. The name of this mailbox is VAVBASTL/RMC/OEF. Send a separate e-mail request for each claims file needed. RMC will ship folders the same day the request is received if the request is received before 10:00 a.m. Central Standard Time. Indicate on the e-mail request that it is an OEF/OIF claim. Be sure the request includes the VA claim number, name of veteran, veteran's social security number, and the RO name and number. Update BIRLS/SHARE/COVERS when the folder is received.

Pre-Determination - Diaries and Follow-Up

If a disability claim is received before a service member is discharged, notify the claimant that the claim was received but that a decision cannot be processed until discharge. Advise him/her of any dependency documentation or other information that will be required. If there is no military liaison to promptly furnish evidence of discharge to VA, establish a future diary for no more than 30 days. When the local diary matures, check BIRLS/SHARE for the individual's status. If BIRLS/SHARE does not show a discharge date, and the service member was receiving medical treatment, the RO Military Records Specialist (MRS) should contact the medical center where the service member was receiving care to confirm his/her status.

If the claimant has not been discharged from the military after the 30-day time period, establish another diary for 30 days. Repeat this process until the individual is discharged and the claim can be processed. After discharge, establish a pending issue using the date of discharge as the date of claim.

Service Department and Retired Pay Center Liaison

The designated MRS and the Military Retired Pay Coordinator (MRPC) at each RO should utilize his/her expertise and contacts to obtain any service department record or retired pay information that is needed to expedite a claim.

Service Medical Records (SMRs)

DoD will likely send the SMRs of OEF/OIF casualties directly to the RO rather than the RMC. Upon receipt of the SMRs, the RO will update BIRLS/SHARE according to the instructions contained in M21-1, Part III, chapter 4, paragraph 4.06.

Rating Team

General. Claims containing evidence sufficient for rating purposes and pulling of the claims file will immediately be delivered to the Rating Team. The VSCM will develop procedures for the special handling of OEF/OIF claims to ensure that rating decisions are completed and returned to the Post-Determination Team within 14 calendar days of

receipt in the Rating Team. These standards also apply if ratings are prepared at Benefits Delivery at Discharge (BDD) sites. The Rating Team is also responsible for expeditious consideration of claims for VR&E benefits (see topic below). All ratings must be prepared in RBA 2000.

Paragraph 29 or 30. If the veteran is hospitalized when discharged from the service, consider awarding benefits under Paragraph 29. Also, consider assigning a convalescent rating under Paragraph 30 when the veteran is discharged or released from the hospital.

Paragraph 28. Prestabilization ratings ensure that those veterans most likely to be in need and least likely to be self-sufficient receive the maximum amount of benefits as quickly as possible.

When a claim is received from an injured or ill OEF/OIF claimant, take immediate action to establish service connection. Prepare a prestabilization rating if medical records show the existence of an unstabilized condition. Avoid requesting exhaustive development, VA examinations, or additional service records unless necessary to decide the claim. Rate claims solely on VA medical records if a veteran is discharged from service while a patient in a VA medical center. There is no need to wait for service medical records in these cases. Do not postpone rating action simply because a claimant is discharged from service while hospitalized.

To help achieve the 30-day processing goal, obtain a prestabilization medical report (if needed to decide the claim) if a veteran is hospitalized at a VA medical center for more than 30 days. If the veteran is discharged from the medical center before 30 days of hospitalization, obtain the final hospital summary.

Additional instructions on prestabilization ratings are available in M21-1, Part VI, chapter 10, paragraph 10.01. The transcript of a satellite broadcast on this topic is also available online at http://vbaw.vba.va.gov/bl/21/Publicat/Letters/VBNtranscripts/T03-01.doc.

Claims for Vocational Rehabilitation and Employment (VR&E)

The guiding factor in the jurisdiction of vocational rehabilitation claims is to provide the claimant the fastest possible service. The VSC is responsible for determining basic eligibility and forwarding that eligibility determination to VR&E, which is responsible for the initial evaluation and counseling.

NOTE: VR&E can initiate evaluation and counseling and, in some cases, authorize training before the claimant is discharged from service.

Claims Taken by VSC Personnel. If a VA Form 28-1900, *Disabled Veteran's Application for Vocational Rehabilitation*, is filed by a patient in a military hospital or VA medical center, the application should accompany the compensation claim package to the RO.

This package will consist of VA Form 21-526, *Veteran's Application for Compensation or Pension*, available service medical records, and, if available, a current hospital report. If additional medical records are needed, request them from the hospital. Establish necessary controls to ensure these claims are given the highest priority.

If a VA Form 21-526 has already been filed, the VA Form 28-1900 will be forwarded to the RO.

Once all needed evidence is of record, the rating team will take immediate action to prepare a memorandum rating in accordance with M21-1, Part VI, chapter 4, paragraph 4.02. The Post-Determination Team will take priority action to prepare an eligibility determination. Immediately forward the memorandum rating and VA Form 28-1900 to the VR&E Officer. A flash identifying the case as an OEF or OIF claim should accompany the memorandum rating and VA Form 28-1900 referred to the VR&E Officer.

Post-Determination Team

As noted above, the Post-Determination Team takes priority action to process all OEF/OIF ratings, including eligibility determinations for VR&E. If the latter are not the purview of the Post-Determination Team, the VR&E memorandum rating and VA Form 28-1900 will be immediately forwarded to the VR&E Officer.

Authorizers are reminded to mark the necessary indicator on the 501 screen when authorizing initial Dependency and Indemnity Compensation and permanent and total disability compensation claims. See M21-1, part V, paragraph 4.11e(11).

(Note: Veterans awarded service connection for their disability are to be advised of their eligibility for Service-Disabled Veterans' Insurance. See Enclosure F - Insurance Procedures.)

Questions

Please direct questions concerning this enclosure by e-mail to VAVBAWAS/CO/OUTREACH.
VBA Letter 20-05-14

Enclosure C

EDUCATION PROCEDURES

Priority

All RPO personnel must be alerted to promptly identify chapter 35 education claims from dependents of individuals involved in Operation Enduring Freedom/Operation Iraqi Freedom.

Chapter 35

Chapter 35 claims involving OIF/OEF veterans should be given precedence over all other EDU claims. Due to the urgent nature of these claims, processing will be specialized. The RPO will set a high priority on these claims and will select the VCEs to process them. Each RPO EDU Division must select a person designated to be the contact representative with respect to OIF/OEF claims. This person will oversee these claims from submission to completion. These claims will most likely be a result of C&P notifying claimants that they may be eligible for chapter 35 benefits. Should a claimant come to the RPO requesting chapter 35 benefits, and no C&P rating is completed, the RPO EDU Division contact person will oversee conveyance of that request to the appropriate RO for evaluation.

Permanent and Total Disability Claims. Chapter 35 benefits are potentially payable to spouses and children of veterans who are permanently and totally disabled due to service-connected disabilities.

Dependents of Prisoners of War and Military Personnel Missing in Action. Dependents of prisoners of war and military personnel missing in action for more than 90 days may also be entitled to chapter 35 benefits.

Tracking

Each RPO will track and keep written records of all chapter 35 cases resulting from OIF/OEF claims in the event that the Secretary or Congress requests the information in the future.

LOAN GUARANTY PROCEDURES

Requests for Certificate of Eligibility

Many veterans may be able to obtain their Certificate of Eligibility (COE) from a lender who has access to the Automated Certificate of Eligibility (ACE) system.

The case manager may also request the veteran's COE by having the veteran complete VA Form 26-1880, Request For A Certificate of Eligibility for VA Home Loan Benefits, and providing the necessary proof of service -Statement of Service if on active duty, or DD Form 214 if discharged - for that veteran and faxing it to one of the Eligibility Centers listed below.

The VA funding fee is payable by all veterans not entitled to disability compensation at the time of the loan. So if a veteran intends to purchase a home before they are entitled to receive disability compensation, the funding fee is payable on the loan and cannot be refunded once the award is received. For further clarification please contact a Regional Loan Center.

Requests for a Certificate of Eligibility for Surviving Spouse

Surviving spouses of veterans who die on active duty or later from service-connected causes may also be entitled to loan guaranty benefits. Additionally, spouses of veterans who are listed as POW or MIA for more 90 days may also be entitled to loan guaranty benefits.

The surviving spouse should complete Part I of VA Form 26-1817 (Request For Determination of Loan Guaranty Eligibility - Unmarried Surviving Spouses).

The RO Casualty Assistance Officer (CAO) (see VBA Letter 20-02-28) should then complete Section B of Part II of the form verifying the surviving spouse's basic eligibility, and fax the completed form to the Eligibility Center of jurisdiction. The Eligibility Center will make a formal determination of loan guaranty eligibility within one workday of receipt. The surviving spouse will be contacted by telephone once the decision is made and advised that written notification will follow. The Eligibility Centers and their jurisdictions are as follows:

Eligibility Center	Jurisdiction	Fax Number
Winston-Salem, NC	Areas East of the Mississippi	336-631-5498
Los Angeles, CA	Areas West of the Mississippi	310-235-6345

Use of the Home Loan Guaranty Program

Veterans or Unmarried surviving spouses interested in using the VA home loan guaranty program should contact a realtor or lender. They are the best reference points to lead veterans through the loan pre-qualification process. They can, with the veteran's permission, pull a credit report and walk the veteran borrower through the report line by line. The CAO or Case Manager (CM) might also suggest that the veteran or surviving spouse use the VA Home Loan website (http://homeloans.va.gov/veteran.htm) as a reference point for use of the program, finding a lender, or more specific information about the home loan guaranty program.

Financial Hardship

It has been the longstanding policy of VA to encourage loan holders to extend all reasonable forbearance in the event a borrower becomes unable to meet the terms of a VA loan. This policy is especially appropriate when delinquencies may be the direct result of disruptions due to special military actions, such as unexpected deployments causing family separations and financial burdens for active duty military members. Financial difficulties may be even more severe in such situations for members of the Reserves or National Guard who may be unexpectedly called to active duty for extended periods of time. If it appears that more than simple forbearance is warranted, VA regulations allow holders considerable latitude in modifying the terms of a loan to prevent foreclosure and to help the borrower retain and pay for his or her home. Such modifications may include loan extension, reamortization and interest rate reduction refinancing to prevent and/or cure a default

If the veteran or surviving spouse with a VA loan needs assistance due to financial hardship, the CAO or CM should suggest that the lender be contacted immediately. Once the lender knows the situation, the lender may be able to suggest a satisfactory plan to make up the missed payment(s). The CAO or CM should also refer the veteran or surviving spouse to the Regional Loan Center. Although VA does not make mortgage payments for borrowers, a loan service representative may be able to suggest other remedies.

Soldiers and Sailors Civil Relief Act (SSCRA) of 1940

SSCRA was originally enacted prior to World War II when there was an ongoing draft into active military service. The purpose of the Act is to promote and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the armed forces.

Therefore, when a borrower's ability to meet his or her obligations has been impaired due to military service, certain relief is afforded against the penalties that would otherwise be imposed for nonpayment of such obligations. In addition, the relief provisions include the right, in some cases, to make reduced payments on obligations, and also protections through the courts against foreclosure.

VA's advice to veterans and their families should encourage them to seek cooperation from their loan holders and to discuss other possibilities with private counsel and military attorneys, as necessary. VA is not in a position to offer legal advice to veterans or loan holders concerning requirements of the Act or possible interpretations by local courts. One source of such advice for veterans (which may also be of benefit to servicers) is publication JA 260, Soldiers' and Sailors' Civil Relief Act Guide, prepared by The Judge Advocate General's School, U.S. Army. The information provided is not a substitute for informed advice from loan holders, or private or military attorneys.

Members of the Reserves or National Guard who have home loans, and are called to active military service, may also be entitled to protection under the Act. In order for a veteran to qualify for certain protections available under the Act, his or her obligation must have originated prior to the current period of active military service. As an example, a loan originated during a period of break in service between active duty tours would appear to meet this requirement. Also meeting the requirement would be a loan originated during a period of active military service that was followed by a break in service. A VA-guaranteed loan that used entitlement obtained through Reserve or National Guard service prior to a call to active duty would also appear to meet the requirement. In the case of a secured loan obligation, certain protections apply only if the property is still owned by the veteran during the current period of active service. Benefits under the Act may also extend to co-obligors on a loan.

VA is not charged with enforcement of the Act, as that is delegated to any court of competent jurisdiction of the United States or of any State. However, VA will perform its mission of serving veterans by making every effort to ensure that they receive the protections to which they are entitled.

For more information on this issue, please review Circular 26-01-10, Soldiers and Sailors Civil Relief Act of 1940. It can be accessed via the following link:
http://www.homeloans.va.gov/docs/26_01_10.doc

To Reach a Regional Loan Center:

Regional Loan Center	Jurisdiction	Phone number
Atlanta	GA, NC, SC, TN	888-768-2132
Cleveland	DE, IN, MI, NJ, OH, PA,	800-729-5772
Denver	AK, CO, ID, MT,NM, OR, UT, WA, WY	888-349-7541
Honolulu	HI	808-433-0480
Houston	AR, LA, OK, TX	888-232-2571
Manchester	NY, NH, VT, ME, MA, CT, RI	800-827-6311
Phoenix	AZ, CA, NV	888-869-0194
Roanoke	DC, VA, MD, KY, WV	800-933-5499
St. Paul	IA, IL, KS, MO, MN, NE, ND, SD, WI	800-827-0611
St. Petersburg	FL, AL, MS	888-611-5916
San Juan	PR	787-772-7318

Specially Adapted Housing (SAH) and Special Housing Adaptation (SHA) Cases

SAH cases involving veterans injured as a result of Operation Enduring Freedom/Operation Iraqi Freedom will be processed expeditiously. There are two separate grants available to eligible veterans.

(1) **Specially Adapted Housing** - An eligible veteran may receive a VA grant of not more than 50 percent of the cost of a specially adapted house up to a current maximum of $50,000. Eligible veterans are veterans who have a service-connected disability due to military service, entitling them to compensation for permanent and total disability due to:

- The loss or loss of use of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or
- Disability which includes blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity, or
- Disability which includes the loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbow, or

- The loss or loss of use of one lower extremity together with (1) residuals of organic disease or injury, or (2) the loss or loss of use of one upper extremity, which so affects the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(Note: Veterans awarded a Specially Adapted Housing grant are to be advised of their eligibility for Veterans' Mortgage Life Insurance. See Enclosure F - Insurance Procedures.)

(2) **Special Housing Adaptations** - An eligible veteran may receive a VA grant for the cost of special housing adaptations up to a current maximum of $10,000. Eligible veterans are veterans who have a service-connected disability due to military service, entitling them to compensation for permanent and total disability due to:

- Blindness in both eyes with 5/200 visual acuity or less, or
- The anatomical loss or loss of use of both hands.

The veteran may also qualify for other grants such as the Home Improvement and Structural Alterations (HISA) benefit, which has a current maximum limitation of $4,100 for a service-connected disability and $1,200 for a nonservice-connected disability. To find out if the veteran qualifies for a HISA grant, contact Prosthetics and Sensory Aids Service at the nearest VA health care facility.

For additional information on the SAH grant program, please access the Loan Guaranty website @ http://www.homeloans.va.gov, and click on 'Information on Specially Adapted Housing'.

Questions

Please direct questions concerning this enclosure via e-mail to William W. White, Loan Policy and Valuation Staff (262), or via telephone at (202) 273-7372.

VOCATIONAL REHABILITATION AND EMPLOYMENT PROCEDURES

Priority Processing of Claims

Upon receipt of a veteran's claim for vocational rehabilitation based on a disability incurred in or aggravated as a result of service in Operation Enduring Freedom/Operation Iraqi Freedom, the regional office will process the claim on a priority basis.

Outreach to Hospitalized Service Members

Some disabled service members may be in a hospital or a medical holding unit pending discharge for a disability that arose as a result of service in Operation Enduring Freedom or Operation Iraqi Freedom.

Initial Contact by Veterans Service Center. A staff member of a VSC will usually be the first VA representative to contact hospitalized service members awaiting discharge for disability. The VSC representative will explain VA benefits and application procedures and assist the individual to apply (or re-apply) for benefits.

Chapter 31 Application From Hospitalized Service Member. Once the VSC establishes an entitling disability through expedited memorandum rating, a CP (counseling psychologist) or VRC (vocational rehabilitation counselor) from the VR&E Division with jurisdiction over the individual's hospital or holding company will visit the service member in the hospital to begin counseling and evaluation

If the service member was previously found eligible and was participating in Chapter 31 rehabilitation services, and had to be placed in an interrupt status due to recall to active duty, the veteran's eligibility will be extended (upon re-qualifying for Chapter 31 benefits) to a time equal in length to the recall period plus four months (Public Law 107-103). This extension allows for individual veteran assessment and the development of an appropriate plan for rehabilitative services. Early intervention is particularly important with severely disabled persons who may need independent living services singularly, or as part of a plan for vocational rehabilitation services.

Case Identification

VR&E Officers are instructed to implement and affix a CER Folder "top-sheet" to each disabled veteran's case identified as OEF/OIF related. This top-sheet must include, at a minimum, the veterans' name, claim number, and the legend "OEF / OIF" in its composition. Size and top-sheet color are at the discretion of the VR&E Officer (or designee) but must be sufficient to identify each such case upon request.

Follow-Up

If after VR&E's initial motivational contact, a veteran or serviceperson does not respond or a response of "no interest" is received, VR&E will diary for a follow-up contact within one year of the initial contact.

One way to keep track of these follow-up contacts is to use the calendar functionality of the VR&E Division's Corporate Mailbox. The steps to setting up these diary notifications are listed below.

1) Open the calendar and scroll to the diary date (one year in the future)
2) Double click on the date
3) In the subject line identify the veteran/serviceperson and action you want to take, such as "Follow up with Jane Smith"
4) Click the "reminder" check box to ensure that a notification pops up on the screen on that day
5) In the blank box underneath you can type the veteran's mailing address, last medical treatment facility, and any other identifying information you will need in order to follow up
6) Click "save and close"

Reporting

Each VR&E Division will designate an OEF/OIF Divisional Coordinator. The VR&E OEF/OIF Coordinator will provide updated information, on a monthly basis, to the Station's OEF/OIF Coordinator for those veterans classified in this category who are receiving VR&E Services. The information required includes:

1. Date VR&E claim was received for each OEF/OIF case;
2. VR&E notification entitlement date (i.e., when each OEF/OIF veteran in VR&E's caseload was advised of entitlement to Chapter 31 benefits);
3. The last date the veteran was contacted and the method of contact.

A log of these cases will be maintained in each VR&E Division for the purpose of supplying this information to the Station's OEF/OIF Coordinator. This log must be immediately available for submission to VACO upon request.

Questions

Please direct questions concerning this enclosure to Kim Graham at (202) 273-7415.

INSURANCE PROCEDURES

Distribution of Insurance Outreach Brochures

Injured service members are entitled to a variety of insurance benefits depending upon the nature and severity of their injuries and, in some cases, their VA rating. Such benefits and eligibility requirements should be conveyed to the service members and/or their families.

The Operation Iraqi/Enduring Freedom Coordinator/Case Manager should provide the Insurance brochure "PLAN TODAY. PROTECT TOMORROW." Please check off that the form was provided on VA Form 21-0773 referenced in Enclosure H.

Within the "PLAN TODAY, PROTECT TOMORROW" brochure, the available benefits are explained. These include: a) Servicemembers' Group Life Insurance Disability Extension; b) Veterans' Group Life Insurance; c) Family Coverage under the SGLI program; d) Service-Disabled Veterans' Insurance; and e) Veterans' Mortgage Life Insurance. The service members or their families can additionally be directed to the Insurance website at www.insurance.va.gov. The brochures have been provided to VA Military Service Coordinators (MSCs) and Department of Defense Transition Assistance Program personnel who will provide them to separating service members during Transition Assistance Program briefings on their VA benefits. The Insurance Center provides MSCs and TAP Personnel with supplies of these brochures on an annual basis. The brochure will be updated when there is a major program change. Coordinators/Case Managers can obtain the brochure "PLAN TODAY. PROTECT TOMORROW" from Ruth Berkheimer (issrberk@vba.va.gov) or Kristan Hoffman (isskhoff@vba.va.gov). The pamphlet is also available on the Insurance website (www.insurance.va.gov/buyingNew/insuranceBrochure).

Basic VA Life Insurance Program Information

In addition to providing the brochure, the Operation Iraqi/Enduring Freedom Coordinator/Case Manager should review the eligibility requirements and coverage information on VA life insurance programs, especially the Servicemembers' Group Life Insurance Disability Extension and Veterans' Group Life Insurance, as application for these benefits is time-sensitive. Applications for all programs of insurance are available online at www.insurance.va.gov in the "Forms" section.

SGLI Disability Extension

Eligibility
To be eligible for the SGLI Disability Extension, a service member must be:

- discharged from the service; **AND**
- unable to work due to disabilities incurred in service, **OR**
- have one of the following disabilities, regardless of employment status

  - Permanent loss of use of both hands
  - Permanent loss of use of both feet
  - Permanent loss of use of both eyes
  - Permanent loss of use of one hand and one foot
  - Permanent loss of use of one foot and one eye
  - Permanent loss of use of one hand and one eye
  - Total loss of hearing in both ears
  - Organic loss of speech (lost ability to express oneself, both by voice and whisper, through normal organs for speech - being able to speak with an artificial appliance is disregarded in determination of total disability)

Time Limit
To be eligible for the SGLI Disability Extension, a service member must be within one year from his/her date of discharge.

Coverage
Separating service members can only apply for the SGLI Extension in increments of $10,000 up to the amount of SGLI they had when separating from service.

Ending Date
SGLI Disability Extension coverage ends one year from the member's date of discharge or the date when he/she returns to work, whichever comes first. The member will be converted to VGLI automatically in either event.

Veterans' Group Life Insurance

Eligibility
Active duty and reservists, who are released from active military service and are insured under SGLI, are also eligible for VGLI.

Time Limit
Service members who are insured under SGLI can apply for VGLI within 1 year and 120 days of their date of discharge. After this time, they are no longer eligible for VGLI.

Within the first 120 days from discharge, service members do not have to show good health when applying for VGLI. Even if they are in poor health, they will be approved for VGLI.

Between 120 days from discharge and 1 year and 120 days from discharge, servicemembers must prove they are in good health to obtain VGLI.

Therefore, seriously disabled and disabled service members who do not qualify for the SGLI Disability Extension should be encouraged to apply for VGLI within the first 120 days from discharge to ensure they are approved for the coverage.

Coverage
Separating service members can only apply for VGLI in increments of $10,000 up to the amount of SGLI they had when separating from service.

Service-Disabled Veterans' Insurance

Eligibility
To be eligible for Basic S-DVI, a veteran must have:

- received an honorable discharge.
- been released from active duty after April 25, 1951.

- received a VA rating for a *new* service-connected disability within the last 2 years.
- be in good health except for his/her service-connected conditions

To be eligible for Supplemental S-DVI, S-DVI policyholders must:

- be eligible for a waiver of premiums on their basic policy due to total disability.
- apply for the coverage within one year from notice of the grant of waiver.

To qualify for a waiver of premiums:

- The insured must have a mental or physical disability which prevents him or her from performing substantially gainful employment.
- The total disability must begin **before** the insured's 65th birthday, and must continue for at least six consecutive months.
- The total disability may not begin prior to the effective date of the policy. (Exception: waiver may be granted if total disability commenced prior to the effective date, **provided** it is due to a service-connected disability.)

Coverage
Basic S-DVI coverage is available at a maximum of $10,000 in a range of policies, whole life, term, etc.

Supplemental S-DVI coverage is available at a maximum of $20,000 and the premiums cannot be waived.

Veterans' Mortgage Life Insurance

Veterans Mortgage Life Insurance (VMLI) is a program designed to assist in paying off the home mortgage of eligible veterans in the event of their death. In effect, it is mortgage insurance, because it is payable only to the mortgage lender, not to a beneficiary.

Eligibility

Veterans who have received a Specially-Adapted Housing (SAH) grant from VA are eligible to apply for VMLI. SAH grants are available to certain veterans who are entitled to VA compensation for service-connected, permanent and total disabilities (Listed on pages 4 and 5 of Enclosure D).

The purpose of the SAH grants is to help disabled veterans build or modify their homes to accommodate their disabilities. An example of such a modification includes the addition of a wheelchair ramp for a wheelchair-bound veteran.

Coverage

The amount of coverage equals the amount of the mortgage still owed, but the maximum may not exceed $90,000.

Spousal Benefits

Many service members' spouses are covered under Family SGLI. This provides up to $100,000 of life insurance coverage to spouses of service members covered by SGLI. This coverage was paid for by the member while they were in the service.

Spousal coverage ends 120 days after the service member is separated from service. Spouses are not eligible to obtain VGLI like a servicemember. Instead, during this 120-day period, they can apply for an individual permanent insurance policy at standard premium rates without proof of good health with one of many private insurers affiliated with the SGLI Program. They should be instructed to follow the steps below:

1. Select a company from the SGLI Participating Companies Listing (available on the VA Life Insurance website)
2. Apply to a local sales office of the company selected
3. Obtain a letter from the Office of Servicemembers' Group Life Insurance verifying coverage (OSGLI can be reached at 1-800-419-1473)
4. Give a copy of the letter from OSGLI to the agent who takes the application along with the service member's separation document (Form DD-214 or NGB-22 or written orders).

Surviving Spouse and Other Claimants

Death claims for Service members' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), if carried in lieu of SGLI, will be filed by the Casualty Assistance Officer (CAO) as part of Department of Defense services. In some cases the VA representative may be asked to assist the CAO or family members in preparing of the SGLI claim, or may be responsible for obtaining the SGLI claim without the involvement of military authorities. In all cases, extreme caution should be exercised in counseling regarding SGLI claims. The actual identification of SGLI beneficiary(ies) is contained only in military personnel records.

SGLI Death Claims

Military personnel activities, generally through the CAO, will supply the required information on the amount of SGLI in force and the name(s) of the beneficiary(ies) through the DD Form 1300. Copies of DD Form 1300 which contain this information are considered "certified" copies. Unless otherwise instructed by the CAO, the VA representative will then assist the beneficiary in completing the SGLI claims application and forward it with the certified DD Form 1300 via FAX to the Office of Servicemembers' Group Life Insurance (OSGLI) in Livingston, New Jersey. OSGLI's toll-free FAX number is 1-877-832-4943.

On some occasions, survivors may ask to file a SGLI claim. However, without the "certified" DD Form 1300, the VA representative will not know whether SGLI is in force or the designated beneficiary(ies). The VA representative will complete the claim form as requested, forwarding it to OSGLI in the same manner as described above.

Beneficiary Financial Counseling Service

The Beneficiary Financial Counseling Service (BFCS) has been available to beneficiaries of SGLI and VGLI since October of 1999. BFCS provides free, professional, objective financial advice to SGLI and VGLI beneficiaries following the death of a loved one. The service consists of a personal counseling session, a personalized financial plan, financial planning resources and one year's toll-free access to a financial counselor. The letter that informs beneficiaries that their claim has been paid also informs them of their entitlement to the counseling and contains information on how to obtain it.

Other Service Member Insurance Death Claims

A limited number of casualties may involve service members with National Service Life Insurance, Veterans Special Life Insurance, or Service Disabled Veterans Insurance (RH). Claims should be forwarded by the VA representative via FAX or mail to the VA Insurance Center. The VA Insurance Center's toll-free FAX number is 1-888-748-5822. The mailing address for these insurance claims is Department of Veterans Affairs, Regional Office and Insurance Center, P.O. Box 7208, Philadelphia, PA 19101.

Questions

Questions on all insurance matters should be directed to Paul Kranick, Kristan Hoffman or Ruth Berkheimer, Insurance Service Program Administration and Oversight Staff, at (215) 381-3290

VBA Letter 20-05-14
Enclosure G

DEBT COLLECTION PROCEDURES

Suspension of Collection Action

VA will suspend collection action against any debtor called to active duty during the duration of Operation Enduring Freedom or Operation Iraqi Freedom. Notification for insurance debts will be forwarded to the Philadelphia Regional Office and Insurance Center. REPS, Coast Guard Reserve and Chapter 32 debts will be forwarded to the St. Louis Regional Office. Notification for all other debts will be forwarded to the Debt Management Center (DMC) in St. Paul, MN.

Regional office personnel should contact:

Insurance Debts	Tony Kwasniewski	215-842-2000 ext, 4524
REPS, Coast Guard Reserve, Chapter 32 Debts	Tom Beaty	314-552-9236
All Other Debts	Chuck Moon	612-970-5730

C&P Overpayments

If a compensation and pension overpayment is created because of a claimant's call to active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom, or a prior overpayment exists and there is an indication that the person is still on active duty, the VSC should notify the local finance activity to suspend collection action. Finance will suspend its efforts, notify the claimant, and contact the Debt Management Center for appropriate action.

Notification to the DMC that an individual has been called to active duty for the current emergency can only come from the regional office or the debtor him/herself. When conducting initial intake of an Operation Enduring Freedom or Operation Iraqi Freedom related claim, the VSR should ensure that he/she checks the Benefits Delivery Network (BDN) for debts. If the casualty does have debts, the DMC should be notified immediately so they can prevent the routine dunning letter from reaching the grieving family or the family of a recently wounded service member.

Education - Suspension of Collection of Accounts Receivable (All Chapters)

VA will suspend collection of accounts receivable owed by individuals on active duty and members of the Selected Reserve supporting Operation Enduring Freedom/Operation Iraqi Freedom. Finance will suspend its efforts, notify the claimant, and contact the Debt Management Center for appropriate action.

Reestablishment of Collection Actions

Collection actions will be resumed when VA is notified by the veteran that he/she has returned from Operation Enduring Freedom/Operation Iraqi Freedom or has been inactivated from Reserve/National Guard assignment. ROs and RPOs will notify the Debt Management Center accordingly. Veterans should be encouraged to contact the DMC to discuss repayment options (1-800-827-0648).

INSTRUCTIONS FOR COMPLETING VA FORM 21-0773,
Operation Iraqi Freedom/Operation Enduring Freedom
Seriously Injured/Ill Service Members/Veterans Checklist

VA form 21-0773 (a part of this enclosure) is prepared to ensure that seriously disabled service members who are eventually separated from active duty due to disabilities are provided complete and timely information and service on VA benefits to which there is potential entitlement. The information needed for block 1 through block 10C will be available from DoD records. The usefulness of this record depends on the proper completion and documentation of the information requested. It is mandatory that the record be completed and updated with each action or visit as follows:

Block 1 Self explanatory.

Block 2 Self explanatory.

Block 3 Self explanatory.

Block 4 Show the address where the service member or veteran will eventually live. If possible, show anticipated date of arrival. This address will be used for all future correspondence resulting from claims processing actions.

Block 5A If same as block 4, enter "Same."

Block 5B Self explanatory.

Block 6 Self explanatory.

Block 7 If veteran was in more than one operation, show the most recent one.

Block 8 Leave blank if still on active duty.

Block 9A Self explanatory.

Block 9B Self explanatory.

Block 9C Self explanatory.

Page 2.

Block 10A Identify the person to contact for additional information needed to develop the service member's or veteran's claim.

Block 10B Self explanatory.

Block 10C Self explanatory.

Block 11 Self explanatory.

Block 12A Self explanatory.

Block 12B Self explanatory.

Block 13 Generally self explanatory. List all disabilities for compensation claims.

Block 14 Self explanatory.

Block 15 Self explanatory.

Block 16 Provide comments on interviews, assistance offered, accomplishments, difficulties, diary dates for future interview or other action, anticipated transfers and other future events, and any other relevant information. The information in this area may be important to the succeeding Coordinator(s) or Case Manager(s), and others with interest. If the service member or veteran declines to apply for a benefit to which he or she has probable entitlement, the reason must be shown.

The Under Secretary of Veterans Affairs for Benefits
Washington, DC 20420

VBA Letter 20-07-04

January 30, 2007

Directors (00)
All VA Regional Offices and Centers

Subject: Seamless Transition Process for Seriously Injured OEF/OIF Veterans

There is no higher priority for any VBA employee, whether serving in the field or in Headquarters, than ensuring that we are timely meeting the needs of those seriously injured in OEF/OIF. Our success requires the full attention of every employee and vigilant oversight by our leaders and managers throughout the organization.

I am writing to reemphasize your responsibilities for identifying and helping veterans and their families through what is often an extremely difficult transition. There must be complete coordination among all divisions within your regional office, as well as between your regional office and VHA and DoD service providers who are also directly involved in providing care and benefits.

At every level of our organization, we must ensure we have identified and are case-managing all of the seriously injured. We must actively work to stay in touch with them and do all we can to ease their transition. While DoD and VA are working together as never before to share information and streamline processes, it is only through the direct interactions with the seriously injured by our employees and other service providers that the transition can, in fact, become "seamless."

Our employees play a major role in supporting the seriously injured and their families. Communications and follow-up contacts must continue, even after their disability award has been finalized – not just to make them aware of the other benefit programs available to them, but also to assist them in taking advantage of these programs at the appropriate times. Your Service Center and VR&E staffs both play a vital role. You must make certain that your employees are knowledgeable and prepared; that your efforts are fully coordinated with DoD and VHA; and that every seriously injured servicemember and veteran receives timely, professional, and compassionate service.

VBA Letter 20-05-14, dated March 8, 2005, provides detailed outreach and claims processing instructions for OEF/OIF casualties. A summary of these requirements is enclosed with this letter. Every director should again review the implementation of these requirements at your regional office and ensure that your office is in full compliance.

/s/
Daniel L. Cooper

Enclosure

VBA Letter 20-07-04
Enclosure
January 30, 2007

Seamless Transition Process for Seriously Injured OEF/OIF Veterans

Key provisions of VBA Letter 20-05-14

- A critical part of the seamless transition process for both VBA and VHA is having VBA Counselors and VHA Social Worker Liaisons at the Military Treatment Facilities (MTFs). Regional offices (ROs) should have established liaison with local military treatment facilities to ensure the timely notification of casualty arrivals and processes for scheduling ward visits.

- VBA counselors at key MTFs or VA medical facilities meet with every injured OEF/OIF servicemembers when medically appropriate. The servicemembers are made aware of all potential VA benefits and services as well as other benefits and services available through other sources. They are assisted in completing their claims and gathering supporting evidence. While servicemembers are hospitalized, they are routinely informed about the status of all of their pending claims. Servicemembers are given a business card that contains the VBA Counselors name and contact information such as a telephone number.

- All discussions with disabled OEF/OIF servicemembers, including their families, are documented.

- Servicemembers are given VA contact information for the new RO Coordinator or Case Manager when they are being transferred to another medical facility, released to home, or awaiting discharge/retirement orders. The reverse of the Coordinator's business card may be used for this purpose.

- Compensation claims taken for the seriously disabled are expedited to the appropriate RO with the VA Form 21-0773, and a clear indication that they are for an OEF/OIF seriously disabled claimant.

- The Director or Assistant Director calls returning seriously disabled servicemembers when they first arrive in the RO's jurisdiction to welcome them home and advise them that they will be contacted by the OEF/OIF Coordinator or a Case Manager.

- The Director ensures each RO designates an OEF/OIF Coordinator and an alternate to act as liaison with VA medical facilities, military facilities and other entities to ensure that service is being coordinated for seriously injured servicemembers.

- An OEF/OIF Coordinator is designated for all OEF/OIF outreach activities and acts as the primary VBA point of contact for seriously disabled servicemembers when they first arrive in the RO's area of jurisdiction as medical patients. Notifications on any change of names, titles, and telephone numbers of OEF/OIF Coordinators should be sent to the mailbox for VAVBAWAS/CO/OUTREACH.

- The Director ensures a Veterans Service Center (VSC) Case Manager is assigned for each compensation claim received for a seriously disabled OEF/OIF servicemember. The Case Manager becomes the primary VBA point of contact for claims processing; however, the VBA Counselors at the MTF may continue to be involved if the servicemember is still a patient at the MTF. In those cases, coordination between the VBA Counselor and Case Manager is essential.

- Each VSC Case Manager must ensure that an outreach letter is sent to each new seriously disabled servicemember arriving in the RO's jurisdiction that provides an overview of VA benefits and services and offers assistance. The letter must include all appropriate benefit application forms for which a claim has not been received; and VA Pamphlet 21-01-1, *A Summary of VA Benefits*.

- ROs must schedule meetings locally with VHA and DoD officials to share information in order to facilitate outreach, coordination, and expeditious claims processing for all OEF/OIF veterans.

- ROs must ensure that all returning disabled servicemembers receive all possible assistance from the entire Department. All personnel must cooperate and coordinate with those from other divisions or offices who are directly involved in providing benefits and services, including medical care, for these servicemembers.

- All regional offices must continue to work closely with Reserve and National Guard Units, as stated in the Memorandum of Agreement between the National Guard Bureau and the VA, to schedule benefits briefings for units being activated and/or demobilized as part of OEF/OIF, coordinate outreach efforts with VA healthcare facilities, and expeditiously case manage claims for seriously disabled servicemembers.

- RO Directors and VSC Case Managers must be significantly engaged in outreach and the management of these claims for seriously injured veterans. The Director's responsibilities and those of VBA Counselors and VSC Case Managers are to ensure that an injured OEF/OIF servicemember has a point of contact to refer questions and concerns.

- Follow-up calls should be made by the Case Manager or a supervisor to ensure that any claim or other VA issues are addressed for severely injured veterans. Communications and follow-up contacts must continue, even after their disability award has been finalized, to ensure they are fully informed about other benefit programs and assisted in taking advantage of these programs at the appropriate times.

In addition to the written guidance, the OEF/OIF priority claims processing initiative has been extensively discussed with regional office directors and managers on several nationwide conference calls. Our four area directors have also conducted conferences with the regional offices in their jurisdictions covering the procedures and expectations for expedited OEF/OIF claims processing. In mid-March, VBA hosted a conference attended by the regional office OEF/OIF coordinators. This conference provided additional guidance regarding services for seriously injured servicemembers and veterans, as well as refresher training on case management principles.

Question 3. At what point in the process of DOD's consideration of whether an injured servicemember is going to remain on active duty or be processed for separation from the military does VA help servicemembers fill out and submit claims for VA compensation? How are these claims tracked once they are submitted?

Response. Our benefits counselors who are working with the seriously injured OEF/OIF servicemembers at the MTFs indicate that the start of the Military Evaluation Board (MEB) process is usually also the best time to begin the VA disability compensation claim process. It is at this point that the medical evidence is usually compiled and available. Completion of the MEB/Physical Evaluation Board (PEB) process and separation from service is usually about 6 months from this point. For the very seriously injured OEF/OIF servicemember, the VA claims process can often begin earlier in connection with claims for benefits payable while on active duty, such as the automobile and adaptive equipment grant.

Servicemembers who are in "medical hold" are also provided opportunities to participate in our Transition Assistance Program (TAP) and Disabled Transition Assistance Program (DTAP) briefings, where benefits counselors are available to assist in preparing and submitting claims for benefits. For those who are not seriously injured, it is appropriate to begin the VA disability claims process at the time of referral to the PEB (following the MEB "fitness for duty" decision).

Controls are established in our Benefits Delivery Network processing system to track and monitor claims from seriously injured OEF/OIF veterans. Each claim from a seriously injured OEF/OIF veterans also case-managed to ensure expeditious processing.

We are very excited about a new application that will provide VA with the ability to track servicemembers from the battlefield through Landstuhl, Germany, the MTFs, and on to the VA medical facility. The new application, known as the Veterans Tracking Application (VTA), is a modified version of DOD's Joint Patient Tracking Application—a Web-based patient tracking and management tool that collects, manages, and reports on patients arriving at MTFs from forward deployed locations.

The VTA Web-based system allows approved VA users to access this real-time information about the servicemembers we serve and track injured active duty servicemembers while they transition to veteran status. VTA will have all medically evaluated OEF/OIF servicemembers in the database as necessary to provide VA care and benefit claims support. This application was developed for VA to coordinate care from an MTF to a VA medical center to ensure that VA will know where the servicemember is currently located, where the patient came from, and who has seen the patient. The application is also designed to identify where servicemembers filed claims and which VBA counselor assisted the servicemember in the claims process. The application has an historic record feature to ensure we preserve all status changes. Full implementation was completed at the end of April.

Question 4. What is the status of VBA's efforts to move toward electronic claims files?

Response. This question concerning "electronic claims files" appears to relate to our efforts to expand our use of electronic data and records in place of paper records. We are working to integrate "paperless" processing into our data and information systems and processing procedures. We are using imaging technology to support paperless processing in all of our education and insurance benefits programs. We are also incorporating imaging technology and electronic records in our pension program processing.

We are now conducting a pilot program to incorporate imaging technology in our disability compensation processing as well. Our pilot program involves claims from recently separated veterans filed through our Benefits Delivery at Discharge Program. We are receiving the veterans' service medical records electronically and are maintaining electronic claims folders for all claims filed under this pilot program.

We believe that our pilot program will successfully demonstrate the feasibility of this technology in the disability compensation program for newly separated servicemembers. However, because of the magnitude of the paper records we store,

the extent to which we can "paperlessly" process claims from veterans of all periods of service has yet to be determined. VA stores and maintains over four million active claims files and 20 million inactive files. In addition to the tremendous volume of records, much of the evidence VA receives includes handwritten and often fragile documents, particularly for veterans of earlier periods of service, which present unique challenges.

Question 5. Should VA's estimate of 800,000 claims receipts be exceeded in Fiscal Year 2007, what measures does VA plan to take to avoid any negative effect on the claims inventory?

Response. Increasing staffing levels is essential to handling the current high volume of incoming claims and minimizing any negative effect further increases might have on the claims inventory. We began aggressively hiring additional staff in fiscal 2006, increasing our on-board strength by over 580 employees between January 2006 and January 2007. We are continuing to accelerate hiring, adding 400 additional employees by the end of June. Our budget submission for 2008 requests an increase of 450 full time employees. We have also increased overtime funding this year and recruited retired claims processors to return to work as reemployed annuitants in order to increase decision output.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. BARACK OBAMA TO HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Question 1. DOD Coordination. I appreciated your comments about expanding the VA's role in DOD's military pre-separation process, although I think we need to be more systematic than simply offering a new VA "Claims Workshop" to servicemembers. I've shared the deep concern and outrage of many of my colleagues here today about the situation at Walter Reed and how DOD manages its own disability review process, which itself struggles under the weight of long delays and chronic understaffing.

Question 1(a). Could you provide further comment on concrete and more systematic steps that might be taken to coordinate or integrate VA and DOD disability review processes to ease the transition of wounded and recovering servicemembers?

Response. The Secretary of Veterans Affairs chaired the President's Interagency Task Force on Returning Global War on Terror Heroes, which reviewed VA and DOD disability benefits processes. The just-released Task Force Report recommends development of a joint DOD/VA process for disability benefits determinations by establishing a cooperative Medical and Physical Evaluation Board process within the military service branches and the VA care system.

Question 1(b). Until more systematic coordination occurs between DOD and VA, what other steps have been taken by VA to follow GAO's previous recommendation that regional offices use an alternative resource for obtaining military records, prior to going through the inadequate Joint Service Records Research Center (JSRRC), which averages 1 year to turn around requests?

Response. VA established an intranet link to VBA-sanctioned Web sites to assist field personnel in using research resources to expedite the processing of post traumatic stress disorder (PTSD) claims. RO personnel access these sites before sending an inquiry to JSRRC.

VA has organized a special help team to review the cases from JSRRC in an attempt to reduce some of the current backlog. The special help team is tasked with reviewing requests currently pending at JSRRC to determine if any of the cases can be resolved with the research resources available at the regional offices.

VA is developing a training curriculum to train regional office personnel in the basics of military records research, which will reduce the number of cases referred to JSRRC.

Question 2. Staffing levels. I think it's fair to say I share the skepticism of some of my colleagues about the agency's assumptions regarding the anticipated number of claims in Fiscal Year 2008, which you've stated is expected to be 800,000.

Question 2(a). Could you discuss in detail the assumptions VA used in reaching this number, especially in light of the 39 percent increase we've seen in claims since 2000 and the growing number of returned servicemembers from OEF/OIF? On that count alone, there are more than 631,000 discharged servicemembers who are eligible for some form of care or benefits within the VA system.

Response. Our budget estimation model forecasts disability compensation benefits for veterans of all periods of service using a complex combination of historical data, current experience, workload and performance projections, and assumptions. The

model forecasts obligations and outlays for 10 years. This method has been determined to be a reliable method for projecting compensation costs and future liability.

Our workload estimates for disability claims receipts are based on a number of factors to include historical workload trend data, veteran census data, staffing and other known factors impacting receipts. The process has yielded adjusted workload projections within approximately 1 percent of actual receipts when viewed over the last five fiscal years. The current wars in Afghanistan and Iraq are an important workload variable that must continue to be considered. We believe our process is adequately adjusted for workload changes resulting from the wars and will allow VA to receive the resources to properly care for this Nation's returning servicemembers.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. LARRY E. CRAIG TO HON. DANIEL L. COOPER, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Question 1. In recent years, thousands of claims were filed that all sought the same relief—dual ratings for bilateral ringing in the ears. It is my understanding that, while the courts tried to resolve the underlying legal issue, these cases were essentially proceeding separately up and down the system, creating workload spikes at all levels of the process.

Question 1(a). What impact did this have at the VA regional offices and at BVA?

Response. VA has had a longstanding policy that a veteran is entitled to only a single evaluation for tinnitus (ringing in the ears), whether that condition manifests itself in one ear, both ears, or the head. Because claims for multiple evaluations for tinnitus began appearing at the Court of Appeals for Veterans Claims (CAVC), VA, in May 2003, amended the diagnostic code for tinnitus in the rating schedule by adding a note, which expressly prohibits multiple evaluations for this condition. Anticipating VA's clarification of the rating schedule, numerous claimants began filing claims for multiple ratings for tinnitus in the hope that the claims would be adjudicated under what was believed to be a more liberal application of the law allowing for multiple evaluations. On April 5, 2005, the CAVC, in *Smith* v. *Nicholson*, held that VA's rating schedule prior to the May 2003 addition of the note allowed for multiple ratings for tinnitus. In total, fewer than 5,000 tinnitus claims had been filed or were pending at the Board of Veterans' Appeals (Board or BVA) when the Court rendered its decision in *Smith*. On April 22, 2005, the Secretary directed the BVA Chairman to impose a stay on all bilateral tinnitus claims pending at the BVA that could be affected by *Smith*, and at the same time, VBA stayed further processing of such claims.

The CAVC issued its judgment in *Smith* on April 27, 2005, and the Secretary immediately appealed the decision to the United States Court of Appeals for the Federal Circuit.

The Federal Circuit ruled in favor of VA's position and reversed the CAVC decision in a June 19, 2006, decision. Following that decision, VA proceeded to adjudicate and deny these claims. The Supreme Court denied the appellant's petition for consideration of the Federal Circuit's decision.

We believe that the prompt decision to stay claims affected by the CAVC's decision in *Smith* served to avoid burdens on the adjudication system and delays in adjudication of other claims, and to ensure consistent adjudication following the resolution of the legal issues by the Federal Circuit Court. Additionally, it prevented an unnecessary flood of appeals to the Board of Veterans' Appeals and CAVC. As soon as all legal challenges were exhausted, claims affected by the stay were adjudicated expeditiously.

Question 1(b). If similar claims were either consolidated or stayed early in the process, what do you believe would be the result?

Response. As noted above, we believe that VA's stay of tinnitus claims was essential to managing VA's case load and ensuring efficient and consistent action pending the resolution of the important issue on appeal in *Smith*. More recently, however, in *Ribaudo* v. *Nicholson*, the CAVC held that VA does not have the power to stay the adjudication of cases affected by a CAVC decision that VA has appealed to the Federal Circuit unless VA first obtains the court's permission. Although the full scope and impact of this decision are not clear, it may have a significant effect on VA's ability to manage its case load efficiently in response to court decisions having broad impact on the VA adjudication system. We continue to believe that the Secretary has the inherent authority to stay an adjudication pending the resolution of an important legal question in order to ensure the integrity of the administration of a particular VA benefit and that the integrity of the system can be preserved only

if VA is able to move quickly rather than await a CAVC decision on a stay request, which would likely require time-consuming briefing by the parties and a written decision on the request by the court.

Question 2. I was very pleased to learn that, in addition to providing expedited decisions to severely injured veterans of OEF/OIF, VA is now providing priority claims processing for all OEF/OIF veterans.

Question 2(a). Does VA have performance goals in place for those veterans' claims for the VA regional offices and BVA? If so, what are they?

Response. In February 2007 VA began processing all disability compensation and pension claims received from OEF/OIF veterans on a priority basis. This initiative covers all active duty, National Guard, or Reserve veterans who were deployed in the OEF/OIF theaters or in support of the Global War on Terror (GWOT), as identified by DOD. However, in many of these cases, all the evidence necessary to make a decision regarding a claimant's entitlement to benefits has not been received by VA. While we have expedited the gathering of evidence, the scheduling of medical examinations, and the preparation of the claims decision, this expedited process will in most cases still take a number of months to complete. Our goal is to reduce the process to 100 days for OEF/OIF veterans, compared with the current average of 178 days for all veterans' claims.

Question 2(b). Would you please provide the Committee with an update on how many of these claims VA has received since these policies were instituted; how many of those claims have been decided and the average time it took to render those decisions; how many are still pending and how long on average they have been pending; how many of these claims have been granted and how many have been denied; what percentage have been awarded service connection with disability ratings in excess of 10 percent; what are the nature of the claimed disabilities and the disabilities for which service connection was granted; and what is the accuracy rate for decisions on these claims? If this information is not available due to data limitations, please provide the Committee with a time frame within which that information will be available and can be provided to the Committee.

Response. VA receives a data file from DOD identifying veterans who were deployed in support of GWOT. We match this data file with data from VA's information systems to track health care and benefits usage by GWOT veterans.

The most recent update from DOD includes veterans discharged through November 2006. This data file was compared to VA records through February 2007. This match identified 181,966 GWOT veterans who have filed a claim for disability benefits either prior to or following their GWOT deployment (approximately 26 percent of 689,317 total GWOT veterans).

Many GWOT veterans had earlier periods of service, and they filed for and received VA disability benefits before their most recent deployment. VBA's computer systems do not contain any data that would allow us to attribute veterans' disabilities to a specific period of service or deployment.

Of the 181,966 GWOT veterans who have filed a claim either prior to or following their GWOT deployment, 136,189 were awarded service-connected disability compensation, 17,241 were denied, and 28,536 have claims pending. Among those awarded service-connected disability compensation, 83,676 (61 percent) received a combined degree of disability rating greater than 10 percent.

The charts that follow provide a breakdown of those awarded service-connected disability by combined degree of disability and the most frequently claimed service-connected disabilities.

GWOT Veterans Awarded Service Connection by Combined Degree of Disability

Combined Degree (in percent)	Reserve Guard	Active Duty	Total
0	10,551	11,380	21,931
10	12,763	17,819	30,582
20	6,738	13,343	20,081
30	5,060	13,202	18,262
40	4,195	11,290	15,485
50	2,155	6,430	8,585
60	2,241	6,548	8,789
70	1,348	3,952	5,300
80	965	2,528	3,493
90	404	1,039	1,443
100	719	1,519	2,238
Total	47,139	89,050	136,189

Ten Most Frequent Service-Connected Disabilities for GWOT Veterans

[Both Active Duty and Reserve/Guard]

Diagnostic Code	Diagnosis Description	Count
6260	Tinnitus	39,120
5237	Lumbosacral or cervical strain	33,904
6100	Defective hearing	28,589
5299	Generalized, Elbow and Forearm, Wrist, Multiple Fingers, Hip and Thigh, Knee and Leg, Ankle, Foot, Spine, Skull, Ribs, Coccyx.	22,813
9411	Post-Traumatic Stress Disorder	17,644
5271	Limited motion of the ankle	16,907
5260	Limitation of flexion of leg	16,556
5242	Degenerative arthritis of the spine	12,834
5201	Limitation of motion of arm	12,127
7101	Hypertensive vascular disease (essential arterial hypertension)	12,084

We are unable to provide an accuracy rate specific to claims received from veterans deployed in support of GWOT. VBA's quality review program includes a random sampling across all claims filed for compensation and pension, including those submitted by veterans of this cohort. However, we do not isolate accuracy for any particular sub-group of the veteran population. We also do not yet have a means of separately track and measure timeliness of processing for GWOT claims. A reporting system is being developed to track these claims.

Question 3. In 2005, the GAO reported that there are "large performance variations" among the regional offices. For the lowest performing offices, would you please provide a comparison of their performance outcomes to the national performance outcomes over the past 5 years?

Response. We are providing the data requested for the 10 regional offices currently experiencing the longest claims processing times. VBA has taken measures to assist with the processing of veterans claims at each of the listed facilities. For example:

• The New Orleans Regional Office (RO) was severely impacted by Hurricane Katrina. We have temporarily transferred ("brokered") work from this facility to other ROs with the capacity to process additional work to minimize the impact on veterans within that jurisdiction.

• The Pittsburgh RO was recently assigned jurisdiction of the overseas foreign workload. The processing of foreign claims takes considerably longer, as it involves working with foreign embassies to obtain medical examinations and other evidence. During the same period, the RO lost a significant number of its most experienced personnel through retirements.

• The Chicago RO received an increase in incoming claims as a result of the special Six State Outreach Initiative. We have authorized the Chicago RO to hire additional claims processors and have brokered work to other regional offices to better serve veterans in this area.

• To better serve the veterans residing in the Washington, DC area, the Roanoke RO recently assumed jurisdiction for the majority of claims previously assigned to the Washington RO.

• To improve benefits delivery to veterans served by the Los Angeles RO, jurisdiction of claims from veterans residing in Orange County, CA, was reassigned to San Diego.

Average Days to Complete	2002	2003	2004	2005	2006	February 2007
Nation	223.4	181.5	165.5	166.8	177.1	177.4
Washington	377.2	266.3	159.4	195.6	251.2	306.3
Pittsburgh	147.2	112.1	167.6	186.5	219.7	260.3
New York	273.6	230.0	207.4	188.8	229.6	258.4
New Orleans	166.9	150.3	156.5	153.8	269.4	249.3
Anchorage	287.9	232.3	187.4	190.7	241.8	247.3
Des Moines	223.0	217.7	191.4	209.5	221.4	245.5
Reno	329.6	261.8	197.6	187.6	203.9	239.9
Chicago	190.6	133.4	185.6	203.7	226.5	237.9
Newark	309.5	276.3	200.9	179.2	232.7	230.8
Los Angeles	239.6	217.4	206.3	211.6	237.4	226.5

Chairman AKAKA. Thank you, Admiral Cooper, for your testimony.

And now I call on the Honorable James P. Terry, Chairman of the Board of Veterans' Appeals.

STATEMENT OF HON. JAMES P. TERRY, CHAIRMAN, BOARD OF VETERANS' APPEALS; ACCOMPANIED BY RON GARVIN, VICE CHAIRMAN; AND STEVE KELLER, SENIOR DEPUTY VICE CHAIRMAN

Mr. TERRY. Good morning, Mr. Chairman. I greatly appreciate the opportunity to be here today to discuss with you and the other Members of the Committee the Board of Veterans' Appeals' role in the VA benefits claims system.

Mr. Chairman, I am joined today by Mr. Ron Garvin, the Vice Chairman of the BVA, to my immediate left, and Steve Keller, the Senior Deputy Vice Chairman, two integral parts of our leadership team, and I am delighted they could be here this morning.

Mr. Chairman, I will address Board productivity, the accuracy of our decisions, current issues affecting the Board, and a review of those actions we are currently taking to improve the claims adjudication and appeals process in my remarks this morning.

Mr. Chairman, the Board's mission is essentially unchanged since its establishment in 1933, and that is, of course, to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner. The Board renders final decisions on behalf of the Secretary in all appeals of adverse decisions issued under a law that affects the provision of VA benefits. These appeals most commonly arise from decisions of VA regional offices, but they can also include those arising from decisions by VA medical centers. Although the Board is an appellate body, it has fact-finding authority and provides a fresh look at the law and evidence in each case it considers. In addition to ruling on the merits of the claim, the Board may direct further development of the evidence and readjudication of the claims at issue by the agency of original jurisdiction, be it the regional office or the VAMC, if it is necessary to fairly consider the appeal by our Board.

The Board has jurisdiction, as the Committee is well aware, over a wide variety of issues and matters, but the vast majority of appeals involve claims for disability compensation benefits, and these,

of course, encompass approximately 95 percent of our total caseload.

As I testified before the Committee in July of last year, two of the Board's most important initiatives are: first, to contain and reduce the backlog of appeals by increasing decision productivity while maintaining high quality; and, second, to improve timeliness and service to veterans by eliminating avoidable remands.

Mr. Chairman, I am happy to report that we have had much success in working toward both these goals, as demonstrated by comparing last year's performance with that of prior years.

In Fiscal Year 1994, for example, the Board issued 22,000 decisions with 442 full-time equivalent employees, or FTEs. Our pending caseload stood at 47,000 and was on its way to 60,000. By Fiscal Year 1998 we had significantly improved our productivity by issuing 38,000 decisions and holding 4,800 hearings with 483 FTEs—a much enlarged staff.

Most recently, in Fiscal Year 2006, the Board issued 39,076 decisions, but with far fewer FTEs than we had in either one of those years. We also conducted 9,158 hearings, the highest number ever by the Board, and almost twice as many hearings as in 1998.

The Board's most significant challenge is to eliminate the growing backlog with available resources. We will continue to use our resources as efficiently and as effectively as possible to meet this challenge. However, despite our best efforts, we continue to receive more appeals than we are deciding. Cases pending at the start of Fiscal Year 2006 stood at 37,000 and by the end of the year rose to 40,000, this despite the fact that the Board issued 4,901 more decisions in Fiscal Year 2006 than in the preceding year.

To enable the Board to eliminate the growing backlog, the two most important goals for the Board are to continue to reduce avoidable remands and increase productivity.

In regard to remands, we know that veterans want timely and correct decisions with respect to their claims for benefits. For the Board to do that, the record must contain all necessary evidence to decide the claim and show that all necessary procedural protections have been provided. If the record does not meet these requirements and the benefits sought cannot be granted, a remand for further development by the agency of original jurisdiction is necessary.

Remands significantly lengthen the amount of time it takes for a veteran to receive a final decision. A remand adds about a year to the appellate process. Remands not only delay individual cases, but divert resources from deciding new appeals. About 75 percent of cases remanded are returned to the Board, which increases our workload and further degrades timeliness; that is, we have to see the case twice. We decide it first on the remand, and we have to look at it again and decide it once again when it comes back.

In addition, by law we must decide the oldest cases first. Processing newer appeals is, therefore, delayed when remanded appeals are returned to the Board for readjudication. Hence, eliminating avoidable remands is a goal that will provide better service to veterans and their families and ultimately will contribute to diminishing the growing backlog.

Since Fiscal Year 2005, we began working in concert with Admiral Cooper and the Veterans Benefit Administration to avoid re-

mands to the extent possible. We—and I include Admiral Cooper's team because they have done a magnificent job—have made great progress in reducing avoidable remands. To illustrate briefly, in Fiscal Year 2003 the Board issued 31,000 decisions with a remand rate of 42 percent. In Fiscal Year 2004, while the number of decisions issued increased to 38,000, the remand rate soared to 56 percent. In Fiscal Year 2006, we issued 34,175 decisions, but the remand rate was reduced from 56 percent to 38 percent, and that is a very, very significant decline.

Now, we are happy to report that in Fiscal Year 2006 we issued 39,000 decisions with a remand rate of only 32 percent, showing the fruits of our labor. We expect to see the remand rate hold at about that level or improve even further during Fiscal Year 2007 as the Board begins to reach cases on our docket that were first decided by VBA following the initiation of its efforts to reduce avoidable remands.

By "avoidable" remands, we are referring to a class of cases in which a remand could have been avoided if the case was properly processed and reviewed in accordance with existing laws and regulations. It is important to note that under the current adjudication system, a certain percentage of remands are expected for various reasons certainly beyond VA's control, that is, both beyond the control of the VBA and the Board. For example, some cases must be remanded to address intervening changes in the law, as we have seen with regard to the VCAA. Or it could be that new medical evidence is brought forward or changes in a medical condition or other due process considerations. On the other hand, some remands can be avoided by careful development of the record and application of the appropriate law, as well as close analysis of the record and consideration of a harmless error analysis. These latter two points are certainly within the Board's area of responsibility, and we are working very hard to carefully find within the four corners of every case that sufficient evidence to decide the case and not have to ask the VBA to look at it again. And certainly consideration of harmless error analysis is a very important part of our work, as it is with the CAVC.

We will continue to work closely not only with VBA, but with the Office of General Counsel and the Veterans Health Administration to identify and track the root causes of remands in order to provide training that will eliminate avoidable remands. Our training efforts have been considerable to date. Critical training sessions on remand avoidance have been held for all veterans law judges and staff counsel. We have also held joint training sessions with VBA, including a national video broadcast on avoidable remands and evidence development. We have conducted numerous sessions on a variety of medical and legal subjects within our jurisdiction, all designed to reduce remands and improve quality.

Additionally—and this is a very important point—each of our Travel Boards meets on a regular basis on the last day of the Travel Board with regional office personnel to answer questions and discuss areas of concern. Finally, we recently completed work with VHA and VBA on the Compensation and Pension Examination Project, which, by improving the quality of VA compensation medical examinations, will reduce a major cause of remands. This is es-

pecially important in the mental health area. Until we gain the ability to examine in a constructive and contextual way—that is, where there is continuity in the questioning—in order to ensure that each veteran is examined with a contextual set of questions to perform a baseline, we will not be able to evaluate effectively the range of disabilities in each of our veterans. And that is what the CPEP project has done, and we think it is very, very important.

Another important challenge for the Board is to work closely with the 57 regional offices and the Veterans Service Organizations to ensure that our Travel Boards are dispatched as soon as a sufficient docket is created so that the hearing can take place as quickly as possible.

In 2006, Mr. Chairman, in addition to the 106 scheduled Travel Boards, 8 unscheduled trips to Montgomery, Oakland, Columbia, Atlanta, Seattle, Detroit, Phoenix, and New York were added after the schedule was set, for a total of 114 Travel Boards for the year. In each one of these Travel Boards, Mr. Chairman, we asked our judges to hold 43, approximately hour-long, hour-plus, hearings during the course of that week. And if it is a 2-week session, we get 86 from each judge. We try to send at least two judges on each one of these trips. In the case of St. Petersburg, we will be sending four this year each month. So it is a significant number of hearings, and soon as a docket is ready, we try to get the hearing teams out there. And of the 106 scheduled Travel Boards last year, 5 were split trips, which visited two ROs—Lincoln/Des Moines, Fargo/Sioux Falls, Fort Harrison/Boise, Denver/Cheyenne, and Togus/White River Junction. And as I mentioned, on the last day of each of our Travel Boards we offer training and assistance by our staff to the RO adjudication staff.

Of course, this is as much a benefit to our Board as it is to Admiral Cooper's staff, and by that I mean every case that is sufficiently developed that we do not have to return means it is one-half the workload for us, as well as for the VBA staff.

Although much has been done, we still have much to do in increasing productivity at the Board. Within existing resources and by way of incentives and sound management, we will continue to improve. And these are the things we are doing on the Board, and I would like to outline them.

In addition to eliminating avoidable remands, we are trying to strengthen our interagency partnerships, working with General Counsel and Admiral Cooper's staff and VHA, to improve decision quality and joint training efforts.

We are writing shorter and more concise decisions. When I came into the Board, one of the concerns we identified was a need to emphasize the analysis of the facts in the context of existing law rather than including long factual recitations in each decision. And we have eliminated that, and we are writing more concise, more carefully coherent and clear decisions. And I think that really is aiding us in getting more productivity out of each of our staff attorneys and judges.

We are also utilizing employee incentives, a strong mentoring program, and as I mentioned, working joint training with other organizations.

Chairman AKAKA. Mr. Terry, will you please wrap up your statement?

Mr. TERRY. Yes, sir. Absolutely.

This year, certainly in 2007, we are hopeful of increasing the funding for our organization. In the 2008 budget, the President has suggested and certainly we expect the Congress will support an increase of 31 FTEs among our attorney ranks, and this will certainly make a significant difference in our ability to better serve veterans.

Certainly, we would be delighted to take any questions you might have, sir. Thank you for this opportunity.

[The prepared statement of Mr. Terry follows:]

PREPARED STATEMENT OF HON. JAMES P. TERRY, CHAIRMAN, BOARD OF VETERANS' APPEALS

Good morning, Mr. Chairman. It is a pleasure to be here today to discuss with you, the Members of the Committee, and your staff, the Board of Veterans' Appeals' (Board's) role in the VA benefits claims system. I will address Board productivity, the accuracy of our decisions, current issues affecting the Board, and a review of those actions we are taking to improve the claims adjudication and appeals process.

The Board's mission, as set forth in Chapter 71 of Title 38, United States Code, is essentially unchanged since its establishment in 1933—"to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner." The Board renders final decisions on behalf of the Secretary on all appeals of adverse decisions issued under a law that affects the provision of VA benefits. These appeals most commonly arise from decisions of VA regional offices, but also include those arising from decisions by VA medical centers. Although the Board is an appellate body, it has fact-finding authority and provides a fresh look at the law and evidence in each case it considers. In addition to ruling on the merits of a claim, the Board may direct further development of the evidence and readjudication of the claims at issue by the agency of original jurisdiction (AOJ) if it is necessary to fairly consider the appeal.

The Board has jurisdiction over a wide variety of issues and matters, but the vast majority of appeals involve claims for disability compensation benefits, such as claims for service connection, an increased rating, or survivor's benefits, which were denied at the VA regional office level. The Board's objective is to produce well-reasoned, accurate, timely, and fair appellate decisions in all the cases that come before us.

As I testified before this Committee on July 13, 2006, two of the Board's most important initiatives are (1) to contain and reduce the backlog of appeals by increasing decision productivity, while maintaining high quality, and (2) to improve timeliness and service to veterans by eliminating avoidable remands in order to issue more final decisions.

I am happy to report that we have had much success in working toward both these goals, as demonstrated by comparing our past performance with that of recent years.

In Fiscal Year 1994, the Board issued 22,045 decisions with 442 full-time equivalent employees (FTE). Our pending caseload stood at 47,148, and was on its way to 60,000. By Fiscal Year 1998, we had significantly improved our productivity by issuing 38,886 decisions and holding 4,875 hearings, with 483 authorized FTE.

Most recently, in Fiscal Year 2006, the Board issued 39,076 decisions. We also conducted 9,158 hearings, the highest number ever by the Board, and almost twice as many hearings as in 1998.

The Board's most significant challenge for the future is to eliminate the growing backlog. We will continue to use our resources as efficiently and effectively as possible to meet this challenge. However, despite our best efforts, we continue to receive more appeals than we are deciding. Cases pending at the start of Fiscal Year 2006 stood at 37,539, and by the end of the year rose to 40,265. This is despite the fact that the Board issued 4,901 more decisions in Fiscal Year 2006 than in the previous year.

To enable the Board to eliminate the growing backlog, the two most important goals for the Board are to continue efforts to reduce avoidable remands and increase productivity. In regard to remands, we know that veterans want timely and correct decisions with respect to their claims for benefits. For the Board to do that, the

record must contain all evidence necessary to decide the claim and show that all necessary procedural protections have been provided. If the record does not meet these requirements, and the benefits sought cannot be granted, a remand for further development by the AOJ is necessary.

Remands significantly lengthen the amount of time it takes for a veteran to receive a final decision. A remand adds about a year to the appellate process. Remands not only delay individual cases, but divert resources from deciding new appeals. About 75 percent of cases remanded are returned to the Board, which increases our workload and further degrades timeliness. In addition, because by law we generally must decide the oldest cases first, processing of newer appeals is delayed when remanded appeals are returned to the Board for readjudication. Hence, eliminating avoidable remands is a goal that will provide better service to veterans and their families and, ultimately, will contribute to diminishing the growing backlog.

Since Fiscal Year 2005, when we began working concertedly with the Veterans Benefit Administration (VBA) to avoid remands to the extent possible, we have made great progress in reducing avoidable remands. To illustrate briefly, in Fiscal Year 2003, the Board issued 31,397 decisions, with a remand rate of 42.6 percent. In Fiscal Year 2004, while the number of decisions issued increased to 38,371, the remand rate soared to 56.8 percent. In Fiscal Year 2005, we issued 34,175 decisions of which 38.6 percent were remanded in whole or part. We are happy to report that in Fiscal Year 2006, we issued 39,076 decisions, with a remand rate of only 32 percent. We expect to see the remand rate to hold its own or improve even further during Fiscal Year 2007, as the Board begins to reach cases on our docket that were first decided by VBA following the initiation of its efforts to reduce avoidable remands.

By "avoidable" remands, we are referring to a class of cases in which a remand could have been avoided if the case was properly processed and reviewed in accordance with existing laws and regulations. It is important to note that under the current adjudication system a certain percentage of remands are expected for various reasons beyond VA's control. For example, some cases must be remanded to address intervening changes in the law, new medical evidence, changes in medical condition, or other due process considerations. On the other hand, some remands can be avoided by careful development of the record and application of the appropriate law, as well as close analysis of the record and consideration of a harmless error analysis.

We continue to work closely not only with VBA, but with the Office of General Counsel (OGC) and the Veterans Health Administration (VHA) to identify and track the root causes of remands in order to provide training that will eliminate avoidable remands. Our training efforts have been considerable. Several training sessions on remand avoidance have been held for all Veterans Law Judges (VLJs) and staff counsel. We have also held joint training sessions with VBA, including a national video broadcast, on avoidable remands and evidence development. We have conducted numerous sessions on a variety of medical and legal subjects within our jurisdiction—all designed to reduce remands and improve quality. Additionally, each of our Travel Boards has met with regional office (RO) personnel to answer questions and/or discuss shared areas of concern. Finally, we are working with VHA and VBA on the Compensation and Pension Examination Project (CPEP), which, by improving the quality of VA compensation medical examinations, will reduce a major cause of remands.

Another important challenge for the Board is to work closely with the 57 ROs and the Veterans Service Organizations to ensure that Travel Boards are dispatched as soon as a sufficient number of cases that are nearing their place on the Board's docket are ready for hearing. In 2006, in addition to 106 scheduled Travel Boards, 8 unscheduled trips to Montgomery, Oakland, Columbia, Atlanta, Seattle, Detroit, Phoenix, and New York were added after the ROs provided notice that the docket was ready, for a total of 114 Travel Boards for the year. Of the 106 scheduled Travel Boards, 5 were split trips which visited two ROs (Lincoln/Des Moines, Fargo/Sioux Falls, Ft. Harrison/Boise, Denver/Cheyenne, and Togus/White River Junction). On the last day of each of our Travel Boards, we offer training and assistance by our staff attorneys to the RO adjudication staff. This is as much of a benefit to the Board as to the RO staff, if it precludes one case from being returned to the RO from the Board via remand for further development.

Although much has been done, we still have much to do in increasing productivity at the Board. Within existing resources, and by way of incentives and sound management, we will continue to improve by:

(1) Eliminating avoidable remands;

(2) Strengthening our intra-agency partnerships: Our joint training efforts with VBA, OGC, and VHA are improving decision quality and reducing remands;

(3) Writing shorter and more concise decisions: We continue to train and encourage our VLJs and counsel to write clear, concise, coherent, and correct decisions;

(4) Utilizing employee incentive, mentoring and training programs: A number of new programs have been introduced to increase employee motivation and satisfaction, as well as to increase productivity and decision quality;

(5) Making judicious use of overtime: We will use overtime within existing resources to enhance productivity;

(6) Increasing our use of paralegals: We will increase the use of our paralegals for non-decisional support activities, freeing up our legal staff to decide appeals;

(7) Providing improved online legal research tools and analytical frameworks to aid timely and correct decision production;

(8) Succession Planning: The Board will continue its rigorous associate counsel recruitment program to hire the best and brightest attorneys available;

(9) Improve Quality: The Board will use its quality review process to identify areas of concern that require follow-up training;

(10) VLJs will draft some decisions, in addition to reviewing and revising drafts prepared by staff counsel; and

(11) Aggressive recruiting and training program to ensure full productivity by maintaining our authorized staffing levels.

We believe these measures will reduce the backlog and shorten the time it takes for a veteran to receive a fair, well-reasoned Board decision. In addition to the Board's increases in productivity, we have also improved decision quality. In Fiscal Year 2005, the Board's decision quality was 89 percent, based on 34,175 total decisions issued. We are proud to report that in Fiscal Year 2006, not only did the Board increase its total decision output by 4,901 cases, but the Board's decision quality increased to 93 percent. By decision quality, we mean that there were no substantive or procedural errors that would have resulted in the case being reversed or remanded to the Board by the United States Court of Appeals for Veterans Claims. Into the second quarter of Fiscal Year 2007, we find that this enhanced decision quality has been maintained.

Although there was an increase in quality and quantity, the Board saw its pending caseload grow significantly in 2006. As I briefly noted earlier, in addition to issuing 39,076 decisions in Fiscal Year 2006, we conducted 9,158 hearings, an increase of 582 hearings over the total held in Fiscal Year 2005 and the most ever held by the Board. However, the number of cases pending before the Board at the end of Fiscal Year 2006 was 40,265, which was close to a 3,000 case increase over the 37,539 cases that were pending at the end of Fiscal Year 2005. This increase in pending cases occurred despite the increase in the number of decisions issued of nearly 5,000 over the previous year—an increase notwithstanding the reduction in our authorized FTEs from 440 in Fiscal Year 2005 to 434 in Fiscal Year 2006. As of today's date, we have more than 28,000 cases with a pending request for a Board hearing, the highest number ever. Of these cases more than 8,000 are actually ready for a hearing. Our 114 plus Travel Boards in Fiscal Year 2007 should sharply reduce the number of pending hearings.

Although we continue to operate at the 2006 level, our attorneys and judges are significantly ahead of last year's pace in terms of productivity. I attribute this increased productivity to superb leadership in each of our Decision Teams, an unparalleled in-house training and mentoring program, and to the quality of our line attorneys in drafting complex, quality decisions in an accurate and timely manner.

As you know, we have high expectations for our counsel and Veterans Law Judges. We ask each of our counsel to write more than three complete draft decisions a week, and each of our line Judges to review, modify as necessary, and sign approximately 19 decisions a week. Over the course of the year, the Board's fair share standards call for our attorneys to complete a total of 156 timely decisions of high quality, and for each of our line Judges to complete and sign 752 decisions. In addition, each Judge is expected to complete at least 3 week-long Travel Board trips per year, in which they hear cases at one of the 57 ROs. A senior counsel accompanies the Judges during these Travel Board trips to assist in the conducting of the hearings and to provide training and other requested assistance to the RO staff.

In conclusion, we will continue working to develop new and creative solutions to the challenges we face in order to fulfill our statutory mission to hold hearings and provide timely, high quality decisions to our Nation's veterans and their families.

I am pleased to answer any questions you or your colleagues may have.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO HON. JAMES P. TERRY, CHAIRMAN, BOARD OF VETERANS' APPEALS

Question 1. Please update the Committee on the status of the Board's efforts to move toward electronic records in BVA adjudication?

Response. The Board of Veterans' Appeals (BVA or Board) reviews an appellate record that it receives from the agency of original jurisdiction, usually a regional office of the Veterans Benefits Administration (VBA). Aside from an occasional audio or video tape or microfiche film submitted in the record, almost all records reviewed by the Board are paper documents contained in an appellant's claims file or other special purpose folder, such as an education or vocation rehabilitation benefits folder. These files are often voluminous. They may contain records spanning decades and typically include records generated before, during and after the veteran's period of military service. To convert these often massive paper files into electronic form is an enormous undertaking and one that is well beyond the resources and expertise of the Board.

In addition, as you note in the following question, the U.S. Court of Appeals for Veterans Claims (CAVC or Court) requires the submission of a paper record on appeal. As a result, any electronic copies of documents that are part of the appellate record would have to be printed in order to be received by the CAVC.

While we have no program to generate or convert paper documents to electronic records, we are actively using technological advancements to improve our ability to accomplish our statutory mission to hold hearings and consider and dispose of appeals in a timely manner. These efforts include the provision of videoconference hearings, which use a system of digital recording and transmission of the hearing "transcript." We also employ extensive electronic legal research tools that have become essential in assisting the adjudication of decisions on appeal. In addition, a number of years ago the Board created a paperless system for retaining and filing attorney fee agreements that are required to be filed with the Board.

Question 2. Rule Nine of the Court of Appeals for Veterans Claims' Rules of Practice and Procedure requires that paper copies of all documents and evidence relevant to an appeal be transmitted to the Court. Do you believe that repeal of this rule and the allowance of electronic records would expedite the referral of appeals to the CAVC?

Response. As noted above, the Board does not have the ability to convert the massive amount of paper documents it receives into electronic form. If, at some point in time, electronic records were generated by the originating agency and supplemented by the Board, such a change in the Court's rules may well have an ameliorative effect on the timeliness of processing of appeals at the CAVC. The submission of an electronic record would obviate the need for photocopying and collating a massive number of documents. However, absent a change in the Court's rules, the Secretary would still have the burden of designating the record on appeal. I understand that the Court is considering alternatives to the current process for designating the record on appeal that would expedite the processing of cases at the Court. Under this revised process, however, paper records would still be employed.

Question 3. How much training does a Veterans Law Judge undergo per year? What specific training is provided?

Response. The Board devotes a substantial amount of time and resources to providing training to our veterans law judges (VLJs) and staff counsel. Besides the Department of Veterans Affairs (VA)-wide periodic training on Cyber Security, the Privacy Act, the No FEAR Act, Sexual Harassment, and Federal Employee Ethics Requirements, a wide variety of training is provided to enable the Board to produce high quality decisions in a timely manner. The Board has a full-time Training Coordinator who, in close coordination with the Board's Chief Counsel for Policy, is responsible for scheduling and organizing Board-wide training events, which usually average about twice a month. Training on various topics related to computer-assisted legal research also is periodically scheduled by the Board's librarian. Additionally, the Board sends individually selected employees to management and leadership training courses provided at the Office of Personnel Management (OPM) Management Development Centers and the Federal Executive Institute.

With respect to the Board-wide training provided to VLJs and attorneys, the types of training can be broken down into the following five categories: critical skills training; current issues and competency training; specialized skills training; leadership/management development training; and mandatory training. Some of the types of training provided within each of these categories include:

CRITICAL SKILLS TRAINING

• Writing—Training is periodically provided to upgrade writing skills. At the beginning of 2006, the Board initiated a writing skills program entitled the "4–Cs," short for clear, concise, coherent, and correct decision writing. The purpose of the training was to address a number of matters, including the increasing length of Board decisions due, in part, to long recitations of fact and boilerplate summaries of the law, and reasons or bases deficiencies in Board decisions.

• Legal Research—Initial training is offered to new employees and product upgrade/enhancement training is offered on an ongoing basis to the entire attorney and VLJ staff concerning the use of computer-assisted legal research tools.

CURRENT ISSUES AND COMPETENCY TRAINING

• Educational Seminars—Learning seminars of a medical and legal nature are offered monthly (approximately 10 per year). Lectures from Board staff range from 1 hour to 1 hour and a half in length. Participation is voluntary. Examples of some recent topics covered are: Adjudicating Gulf War Claims; Rating Residuals of Gunshot Wounds; Adjudicating Medical Reimbursement Claims; Rating Eye Disorders; Understanding Military Records and Awards; Adjudicating Section 1151 Claims; Adjudicating Section 1318 Claims; and Introduction to Medical Terminology.

• Grand Rounds—Periodic "Grand Rounds" training sessions are provided for all VLJs and staff counsel. Attendance is required. The purpose of these training sessions is to keep the legal staff current with continuing changes in the law, to address areas of weakness in Board decision quality, and to address current "hot" issues.

SPECIALIZED SKILLS TRAINING

• Income Verification Match—This training is required for selected attorneys and VLJs who handle cases that include protected tax information.

LEADERSHIP/MANAGEMENT DEVELOPMENT TRAINING

• Office of Personnel Management Training
• Federal Executive Institute
• Leadership VA
• VA Learning University sponsored leadership training

MANDATORY TRAINING

• Privacy Policy
• Cyber Security Awareness
• Federal Employee Antidiscrimination and Retaliation Act (No FEAR)
• Prevention of Sexual Harassment
• Ethics

Besides Board-wide training, the Board's four decision teams also periodically schedule internal team training events on a variety of issues.

Question 4. How much training does a decision team attorney undergo per year? What specific training is provided?

Response. As discussed in the previous answer, predominantly the same type of training is provided to both the Board's VLJs and staff counsel. However, there are some specific types of additional training that are provided solely to the newly hired attorney staff.

On a Board-wide basis, the following training is provided to new staff counsel on both legal and medical matters:

• Introduction to the Board of Veterans' Appeals (BVA 101)—This training introduces new employees to the structure, operations and policies of the Board. Two-hour course.

• Basic Veterans' Law (BVA 201)—This course is an introduction to the law of the U.S. Court of Appeals for Veterans Claims and the relevant rulings of the U.S. Court of Appeals for the Federal Circuit. Twelve-hour course.

• Computer Skills Training (CST) Course—This training provides the attorney with computer information and tips to enable more efficient drafting of decisions using the Board's computer system. One hour course.

• Global Training—This training provides an overview of the Board's management and administration process. Attorneys have the opportunity to learn firsthand about the journey of a case file once it is received at the Board. Three-hour course.

• Mentoring—This is a 3-month training period where the attorney is tutored on all aspects of decision preparation by an assigned senior Board counsel.

• Adjudication Academy—This is a 2-day collaborative offsite effort by the Veterans Health Administration (VHA), VBA and the Office of General Counsel to provide an opportunity for new BVA attorneys to learn about the role these administrations and staff offices have in the adjudication process. This course is conducted approximately once a year in Baltimore.

Besides Board-wide training, the Board's four decision teams also schedule internal team training events for new attorney staff and summer interns on an "as needed" basis. During 2006, the teams provided training on a wide variety of topics, including the VCAA and Basic Service Connection Concepts; Increased Ratings; Quality Review at the Board; the Handling of Multi Issue/Complex Cases; Efficient Handling of Cases; Career Development; Hearing Loss; Personal Experiences of BVA Veterans; Research Tools; a presentation by Disabled American Veterans national VSO representatives; Conducting Board Hearings; Medical Opinion Requests; the Board's Rules of Practice and Procedure; BVA Handbooks; and VA Benefits Overview.

Question 5. As of February 2007, flexi-place was available for up to 48 high-achieving attorneys. What are your plans to expand this program?

Response. The Board plans to expand its Flexiplace program to a maximum of 88 attorneys, beginning on or about July 1, 2007. The Flexiplace program was originally only available to full- time attorneys, but has been open to part-time employees since September 2006, a feature that will continue when the program is expanded. Employee eligibility depends upon a variety of factors, but all employees selected to participate in the expanded Flexiplace program will be required to demonstrate high levels of achievement as a prerequisite, and must maintain such performance in order to remain in the program.

In terms of performance, the Board's Flexiplace program has resulted in increased individual production for participants, which in turn has contributed significantly to the Board's overall production of decisions. The Board's performance standards require that all Board attorneys produce a minimum of 156 credits per year (credits are roughly equivalent to decisions). We have found that those Flexiplace participants who started the program on or after December 30, 2005, were able to successfully produce at least 170 credits per year, while maintaining acceptable or better quality. We plan to continue these requirements for all participants selected when the expansion of the program is effectuated.

Only those employees who have proven to be dependable, independent, and highly motivated are selected for participation in the program. In addition to contributing significantly to our statutory mission by increasing productivity in order to stem the growth of the backlog and improve timeliness, our Flexiplace program has proven to be a very attractive and important recruitment and retention tool. Some of our best and brightest attorneys have stayed with us or chosen employment with the Board because of this and other efforts to make the Board an employer of choice.

In regard to information and data security, Flexiplace participants are issued VA laptops that are specially encrypted and regularly serviced by VA IT personnel to secure all sensitive information. The technology allows for secure communication between Flexiplace participants at home and personnel or data located at the office. Flexiplace participants transport veterans' case files and draft decisions by specially designed, locking carrying cases issued by VA. Flexiplace participants must also have a home office where their work is performed and data can be secured. The Board conducts periodic home visits of the participants to verify that they are in compliance with all Flexiplace requirements.

The expansion of the Flexiplace program is an enthusiastically anticipated development at the Board and is expected to generate a significant increase in the Board's overall ability to accomplish its mission.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. BARACK OBAMA TO HON. JAMES P. TERRY, CHAIRMAN, BOARD OF VETERANS' APPEALS

Question 1. Mr. Terry, thank you for covering steps that are already underway in the VA to reduce the backlog of claims and shorten turnaround times. Beyond staffing and funding levels, which many of us think are currently inadequate under the proposed VA budget for FY 2008, what do you think are the two most important measures you've outlined in reducing the backlog? In reducing the turnaround time?

Response. Eliminating avoidable remands and using a variety of methods to increase decision productivity are our two most important efforts to stem the growth of the backlog and, at the same time, improve the timeliness of the appeals process.

Remands significantly contribute to the backlog and degrade timeliness. The reworking of an appeal at the regional office, on the average, adds about a year to

the processing of an appeal. The time and resources consumed by developing and readjudicating the appeal, both at the Board and at the regional offices, is diverted from processing original claims and appeals. As about 75 percent of BVA remands are eventually returned to the Board for readjudication, they become a significant addition to the appellate workload. Moreover, as remands, by law, require expeditious handling and generally have older docket numbers, they displace "newer" appeals on the Board's docket and add to the already long wait for justice that our veterans and their families now experience.

While some remands are necessary and advisable, our joint efforts with VBA to eliminate those remands that we justifiably can avoid will, over time, make a significant impact in curtailing the backlog and the delays within the entire adjudication system. We have begun to make important progress in this area, bringing the remand rate down from 56.8 percent in Fiscal 2004, to 38.6 percent in Fiscal 2005, and to 32.0 percent in Fiscal 2006.

Increasing decision productivity while maintaining high quality is the other mainstay of our efforts to stem the backlog and improve timeliness. We have met with success by the implementation of a number of measures, each of which has contributed incrementally to achieve this goal. These measures include fair but challenging performance standards for our VLJ and staff counsel, performance incentives, training and mentoring, efforts for improved and clearer and concise decision writing, and encouraging our judges to draft decisions whenever possible. With these measures, the Board was able to issue 39,076 decisions and hold 9,158 hearings in Fiscal 2006 with our available resources. We believe that these efforts will continue to make inroads in stemming the growth or reducing the backlog.

Question 2. You mentioned "considerable" training efforts to tackle the issue of avoidable remands, including sessions for Veterans Law Judges and joint training sessions with VBA. Expanding these efforts seems like one of the keys to reducing the number of these cases. Could you—or Admiral Cooper, or both—comment more specifically on the scope of these training efforts to date at the regional offices: how many sessions and in how many regional offices, how long do they last, who attends, and who is required to attend?

Response. With respect to the Board's participation in regional office training, the Board conducts training for regional office adjudication staff both during travel board visits and by way of videoconference. Over the past few years, we have conducted numerous such sessions of varying length on a variety of medical and legal subjects designed to reduce remands and improve quality.

During travel board trips, the attorney staff who are sent to assist the VLJs, as well as some of the VLJs, meet with regional office staff to answer questions, discuss shared areas of concern, and provide training when requested. Such interactions are mutually beneficial to both organizations in reducing remands and ensuring cases are fully and properly developed and processed.

Based on the reports received from 28 travel boards (out of 30) conducted so far during Fiscal 2007, Board attorneys have provided informal training to the regional office staff during all trips. Informal training consists of case reviews, determinations of adequacy of development, discussions on recent CAVC cases, discussion on trends noticed in hearing cases, and tips to reduce avoidable remands. Informal training is usually provided on a one-on-one basis with rating veterans service representatives (RVSRs), decision review officers (DROs), and adjudication managers. Formal training, on the other hand, was provided during 17 of the 28 trips, or 61 percent of the time. While training topics vary, the most common topics addressed by Board staff so far this year address matters related to post traumatic stress disorder (PTSD) service connection claims, VCAA notification, and the discussion of recent CAVC decisions. A complete list of the training topics addressed and at which particular regional offices is enclosed (Enclosure 1).

[Enclosure 1 follows:]

Enclosure 1

RO	FY 2007 Training Topics	Informal Assistance
Boston	Proper dev. of PTSD claims; recent CAVC decisions; complete dev. to reduce remands; adequacy of medical evid.	Yes
Albuquerque	Rating knee disabilities, verification of combat service	Yes
Muskogee	None	Yes
St. Petersburg	Adequacy of VCAA notice; avoidable remands	Yes
Waco	None	Yes
Winston-Salem	Avoidable remands	Yes
Columbia	None	Yes
Houston	Development and adjudication of PTSD claims; new and material evidence; CUE	Yes
San Antonio	None	Yes
Nashville	None	Yes
Montgomery	VCAA compliance; when is an exam required; rating of spine disabilities; rating of cardiovascular disabilities.	Yes
Atlanta	Recent CAVC decisions; remand trends	Yes
Detroit	Inferred issues; due process in contested claims	Yes
Indianapolis	Rating disabilities of the eyes; rating knee disabilities; recent CAVC cases including Haas.	
Newark	Development of PTSD stressors; heart disease secondary to PTSD; VCAA notice esp. Kent, other recent CAVC cases.	Yes
Portland	Dev. of PTSD claims; recent CAVC decisions; VCAA notice; avoidable remands; through claim development; adequacy of medical evidence; severance of service connection; rating reductions.	Yes
Philadelphia	VCAA notification esp. Kent	Yes
New York	None	Yes
Phoenix	Role of the Board; recent CAVC cases esp. Haas and Ribaudo; proper weighing of evidence; DeLuca analysis.	Yes
St. Petersburg	None	Yes
Little Rock	Adequacy of VA exam reports	Yes
New Orleans	None	Yes
Atlanta	None	Yes
Jackson	Adjudicating PTSD claims; recent CAVC decisions esp. Haas, Ribaudo, and Kent; avoidable remands.	
Waco	None	Yes
St. Petersburg	Adjudication of PTSD claims; Gulf War claims; VCAA; secondary service connection.	Yes
Cleveland	None	Yes
Winston-Salem	Adjudication based on pre-discharge exam; reserve duty vs. active duty; recent CAVC decisions esp. Deshotel.	Yes

For purposes of comparison, based on the reports received from 109 travel boards (out of 114) that were conducted during Fiscal 2006 (counsel did not accompany the VLJs on some of the trips), Board attorneys provided informal training during all 109 trips. With respect to formal training, this occurred during 62 of the 109 trips, or 57 percent of the time. The most common training topics addressed were PTSD service connection claims, VCAA notification, discussion of recent CAVC decisions (*Kent, Dingess, Haas*), when a VA examination is needed, application of the presumptions of aggravation and soundness, and the assignment of effective dates. A complete list of the training topics addressed and at which particular regional offices is enclosed (Enclosure 2).

[Enclosure 2 follows:]

Enclosure 2

RO	FY 2007 Training Topics	Informal Assistance
Montgomery	Active duty for training vs. inactive duty; verifying PTSD stressors; rating hypertension; SC hepatitis claims.	Yes
St. Paul	Earlier effective date; informal claims	Yes
Atlanta	Remand reasons	Yes
Albuquerque	Evaluating back disabilities; reducing avoidable remands	Yes
Phoenix	None	Yes
Pittsburgh	None	Yes
Muskogee	None	Yes

Enclosure 2—Continued

RO	FY 2007 Training Topics	Informal Assistance
Oakland	VA exam reports; recent CAVC decisions; PTSD claims; reasons for remand.	Yes
New York	None	Yes
Waco	None	Yes
Seattle	Proper framing of issues on appeal; multiple theories of entitlement; development of claims.	Yes
Huntington	None	Yes
Nashville	Personal assault PTSD	Yes
Detroit	None	Yes
St. Petersburg	None	Yes
Winston-Salem	None	Yes
Columbia	None	Yes
Montgomery	''Remand proofing''; VCAA; CAVC case law on service incurrence; policy about PTSD and CAD disorders; DeLuca.	Yes
Boston	None	Yes
Philadelphia	None	Yes
Jackson	Reducing remands	Yes
Little Rock	None	Yes
Atlanta	Reduction of remands; recent case law (to include VCAA)	Yes
St. Petersburg	CAVC 1151 decisions; Haas decision	Yes
Houston	None	Yes
Newark	None	Yes
St. Louis	revised regulations; VCAA; remands; 1151; effective dates; medical examinations of RO employees.	Yes
St. Paul	Due process in 4.29 reductions; SC multiple sclerosis; sufficient PTSD stressors; DeLuca opinions; adequacy of opinions in hearing loss; evidence in TDIU claims; VA speculative opinions; avoiding Colvin violations; weighing of risk factors in hepatitis C cases.	Yes
Los Angeles	Questions about specific fact scenarios and Board's organization and structure.	Yes
San Antonio	Development of SOC's and VCAA	Yes
Portland	None	Yes
St. Petersburg	None	Yes
Waco	None	Yes
Oakland	Avoidance of remands; Board and CAVC trends; VCAA; when to obtain examinations; PTSD stressor development; PTSD personal assault claims; 1151 claims.	Yes
Indianapolis	Avoidance of remands; presumption of soundness and aggravation	Yes
Columbia	proper framing of issues on appeal; multiple theories of entitlement; and the development of claims.	Yes
San Diego	Reduction of remands; Dingess/Hartman impact; when to obtain an examination or opinion; VCAA notice.	Yes
Seattle	Dingess/Hartman; PTSD (stressor development and IR); CUE; secondary service connection; reduction of remands.	Yes
Salt Lake City	Function of BVA; Dingess; when nexus opinions are needed; aggravation claims; DeLuca; the role of CAVC.	
Reno	Reduction of remands; BVA functioning	Yes
Wichita	None	Yes
St. Petersburg	Mayfield and Haas	Yes
Albuquerque	Reasons for remands; Mayfield, Haas; when to request exams and opinions.	Yes
Boston	None	Yes
Providence	Rating psychiatric and TDIU claims	Yes
Little Rock	None	Yes
Cleveland	None	Yes
Waco	None	Yes
Winston-Salem	None	Yes
Anchorage	None	Yes
Denver	None	Yes
Las Vegas	None	Yes
Chicago	None	Yes
San Juan	Complications of diabetes; PTSD; rating spinal disorders; DeLuca; National Guard members; avoidance of remands.	Yes
Jackson	Avoidance of remands; lifting of Smith stay; VCAA; Kent; Dingess	Yes

Enclosure 2—Continued

RO	FY 2007 Training Topics	Informal Assistance
St. Petersburg	Avoidance of remands; focus on when to request exams and opinions	Yes
Waco	None	Yes
Louisville	VCAA compliance; rating knees	Yes
Ft. Harrison	reasonable doubt/equipoise; rating mental and joint disorders; rating hearing loss; difference between inferred and intertwined claims; VCAA; verifying PTSD stressors; Haas; effective dates; adequacy of exams; development of evidence.	Yes
Houston	Avoidance of remand; impact of CAVC cases (Kent)	Yes
San Antonio	None	Yes
Muskogee	Dingess/Hartman; ways to reduce Manlicon remands; when to request VA exams or request opinions.	Yes
Newark	None	Yes
Boston	VCAA.; need to consider GAF scores	Yes
Buffalo	Kent compliance; use of diagnostic codes, particularly the knee	Yes
Hartford	Cue; rating knees	Yes
Atlanta	Common reasons for remand; BVA's attempts to avoid remands	Yes
Roanoke	Impact of Mayfield, Kent, Dingess/Hartman; when examiner must review the file for an exam; when veteran can waive development.	Yes
Detroit	None	Yes
New York City	Dingess/Hartman; weighing evidence; presumption of soundness and aggravation; judicial review.	Yes
Oakland	Tips on ''remand proofing'' decisions; Dingess/Hartman; duty to obtain Federal records; waiver of duty to assist; Smith.	Yes
Montgomery	PTSD development; when exams are needed	Yes
St. Petersburg	None	Yes
Waco	None	Yes
Manila	effective dates; CUE	Yes
White River Jun.	None	Yes
Columbia	None	Yes
Los Angeles	None	Yes
Nashville	Lifting of Smith stay; Kent and Dingess responses; when to obtain exams and opinions.	Yes
New York City	Mayfield and Kent	Yes
St. Petersburg	None	Yes
New Orleans	Dingess compliance	Yes
Huntington	Avoidance of remands; claim development; proper framing of issues; multiple theories of entitlement; adequacy of medical evidence.	Yes
Lincoln	None	Yes
Atlanta	Avoidance of remands; VCAA compliance (Kent, Dingess, Pelegrini; exams and opinions.	Yes
Houston	None	Yes
San Antonio	None	Yes
Philadelphia	VA claims/appeals processing issues	Yes
Seattle	Recent CAVC decisions incl. Haas and McLendon; obtaining SSA records; FTR for exam; obtaining relevant medical evidence.	Yes
Wilmington	Reducing avoidable remands; reasonable doubt doctrine; PTSD stressor development; evaluation of PTSD.	Yes
New York	None	Yes
Newark	PTSD stressor development; when a VA exam is needed	Yes
Denver	None	Yes
San Diego	Recent CAVC decisions incl. Kent Haas, Dingess and Rudd	Yes
Wichita	When to obtain a VA medical opinion; VCAA compliance	Yes
St. Petersburg	None	Yes
Oakland	Recent CAVC decisions	Yes
Phoenix	Overview of BVA; current BVA stats; reducing avoidable remands; PTSD stressor development; obtaining adequate medical opinions.	Yes
Waco	None	Yes
Milwaukee	Credibility and competence of lay evidence; waiver of VCAA	Yes
St. Petersburg	Adjudicating PTSD claims; aggravation; presumption of soundness; Haas; Colvin; when to request a VAX.	Yes
Cleveland	None	Yes
Phoenix	VCAA compliance; PTSD stressor development; DeLuca; Haas; reducing avoidable remands.	Yes

Enclosure 2—Continued

RO	FY 2007 Training Topics	Informal Assistance
Detroit	Gulf War claims; adjudicating Iraq PTSD claims; effective dates; aggravation.	Yes
Atlanta	Recent CAVC decisions incl. Deshotel, McLendon, Kent, Dingess	Yes
Cleveland	Recent CAVC decisions incl. Kent, Haas, Rudd; impact of new definition of psychosis; reducing avoidable remands.	Yes
Little Rock	SC PTSD claims incl. combat and non-combat stressors; need for a VA exam; recent CAVC decisions incl. Haas, McLendon.	Yes
Portland	Definition of chronicity; asbestos claims; inactive duty/active duty claims; EED claims.	Yes
Fargo/Sioux Falls	VCAA compliance; PTSD stressor verification; personal assault PTSD claims; recent CAVC decisions.	Yes
Montgomery	active duty training/inactive duty; verifying PTSD stressors; rating hypertension; SC hepatitis.	Yes
St. Louis	Remand reasons; reducing avoidable remands; VCAA compliance; when to get a VA exam.	Yes
Columbia	PTSD esp. Pentecost; presumption of soundness; aggravation of disabilities.	Yes
New York	None	Yes
St. Paul	Effective dates; informal claims	Yes

Besides training conducted during travel board trips, the Board also provides training to the regional offices by way of videoconference. This training is conducted by the Board's four decision teams to regional offices located in that team's geographically assigned region of the country. This type of training was conducted fairly frequently in the past, but less so in recent years. However, the Board has recently started to see an upswing in the number of requests being received from regional office staff to conduct this type of training. During Fiscal 2006 and the first part of Fiscal 2007, the following training has been conducted and/or scheduled:

July 2006	Decision Tree for Rating Knee Disabilities (New Orleans, Little Rock, Jackson, Atlanta, Montgomery, St. Petersburg, Nashville and San Juan)
July 2006	Local Reasons for Remand Trends (Louisville)
August 2006	New and Material Evidence, Kent VCAA Notice, and CUE (Hartford)
September 2006	Evaluating Back Disabilities (New Orleans, Little Rock, Jackson, Atlanta, Montgomery, St. Pete and San Juan) (Nashville—training materials only)
September 2006	Medical Examinations and Opinions; Rating Knee Disabilities (Louisville)
October 2006	Adjudicating *Nehmer* Claims (New Orleans, Jackson, St. Pete, Montgomery, Atlanta, and San Juan) (Jackson and Nashville—training materials only)
October 2006	Earlier Effective Dates (Houston)
November 2006	VCAA Duty to Notify; Duty to Assist—Obtaining Medical and Service Records; Due Process Issues; Requesting VA Examinations (San Diego)
December 2006	Questions & Answers (Boise)
December 2006	Evaluating Evidence (Louisville)

January 2007 ...	VA Medical Examinations and Opinions (St. Pete, New Orleans, San Juan, Montgomery, and Atlanta) (Nashville—training materials only)
January 2007 ...	Special Monthly Compensation; Competency and Credibility of Lay Statements; VCAA Duty to Notify; Local Reasons for Remand Trends; VA Medical Examinations (Salt Lake City)
February 2007 ..	VA Medical Examinations and Opinions (Little Rock)
February 2007 ..	Earlier Effective Dates; VA Medical Examinations and Opinions; Secondary Service Connection Claims, Including for Alcohol Abuse; Service Connection for "Tension Type" Headaches; Benefit of the Doubt/Reasonable Doubt Standard (Phoenix)
March 2007	VA Medical Examinations and Opinions (Jackson—awaiting delivery of new equipment)
March 2007	Rating Skin Disorders; Periodontal Disease; Claims for Service Connection Based on Aggravation; Adjudicating New and Material Evidence Claims; Weighing Non-medical Evidence When Rating Mental and Musculoskeletal Disorders; VA Medical Examinations and Opinions; Duty to Assist/Additional Records Requests (Ft. Harrison)
April/May 2007	Weighing and Evaluating Evidence (New Orleans, Little Rock, Jackson, Atlanta, Montgomery, St. Pete, Nashville and San Juan)

Finally, besides the training that is provided during travel board trips and by way of videoconference, the Board regularly responds to informal requests received from regional office staff for our views and suggestions on a wide variety of case-related legal and medical issues.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LARRY E. CRAIG TO HON. JAMES P. TERRY, CHAIRMAN, BOARD OF VETERANS' APPEALS

Question 1. In recent years, thousands of claims were filed that all sought the same relief — dual ratings for bilateral ringing in the ears. It is my understanding that, while the courts tried to resolve the underlying legal issue, these cases were essentially proceeding separately up and down the system, creating workload spikes at all levels of the process.

Question 1(a). What impact did this have at the Department of Veterans Affairs (VA) regional offices and at the Board of Veterans' Appeals?

Response. These claims for an increased rating, in excess of 10 percent, for ringing in the ears (tinnitus) were processed by the regional offices in the same manner as any other claims. Under VA's interpretation of the law, our regulations do not provide for a schedular evaluation for ringing in the ears in excess of 10 percent, whether the ringing is perceived to be unilateral, in either ear or in both ears. As a consequence, the claims were denied at the regional office level, and then many were appealed to the Board.

When these claims were appealed, they were considered by the Board in docket order, with the exception of those appeals that were advanced on the docket because of serious illness, severe financial hardship, or other good cause, such as advanced age. They were adjudicated in accordance with VA regulations, which provide for a single 10 percent rating for tinnitus, and accordingly the appeals seeking increased ratings were denied.

Some of these decisions were then appealed to the CAVC. The Court invalidated the Secretary's interpretation of VA regulations and concluded that a rating in excess of 10 percent was assignable for tinnitus perceived as "bilateral." *Smith* v. *Nicholson*, 19 Vet. App. 63 (2005), rev'd, 451 F.3d 1344 (Fed. Cir. 2006). At that point, a Department-wide stay was imposed on all cases affected by the Court's decision while the Secretary appealed the *Smith* decision to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit).

The Department's authority to impose such a stay was challenged by a petition for a writ of mandamus filed at the CAVC. While the CAVC subsequently concluded

that the Secretary does not have unilateral authority to stay cases at the Board pending an appeal to the Federal Circuit of a decision issued by the CAVC, the CAVC denied the petitioner's request for a writ. *Ramsey* v. *Nicholson*, 20 Vet. App. 16 (2006).

On appeal of *Smith*, the Federal Circuit reversed the CAVC's decision. In pertinent part, the Federal Circuit upheld the Secretary's interpretation of VA regulations providing for a single 10 percent rating for tinnitus. The Departmental stay was then lifted and all affected cases were promptly adjudicated. The Board decided over 4,000 of the appeals that had been subject to the *Smith* stay in a period of less than 2 months.

Question 1(b). If similar claims were either consolidated or stayed early in the process, what do you believe would be the result?

Response. The consolidation and/or staying of cases involving a common unresolved legal issue at the CAVC, and staying of cases at the Board and regional offices, would help ensure that similarly situated veterans, such as those with bilateral tinnitus rating claims, are treated in a consistent manner. Doing so also prevents the Board's or the Court's docket from being flooded with cases that may require additional follow-up review depending on the ultimate decision made on the common legal issue.

One of the challenges posed in consolidating or staying cases, however, is first properly identifying them as falling within the parameters of the consolidation/stay. At the Board, for example, cases were not placed in the Department's *Smith* stay until their individual places on the Board's docket were reached and the cases were reviewed by VLJs and attorney staff. Interestingly, while the Court found in *Ramsey* that the Board did not have the authority to stay cases, the Court itself imposed a stay on processing of bilateral tinnitus cases on the Court's docket once the Federal Circuit overturned the CAVC's decision in *Smith* and an appeal petition was filed by the appellant with the U.S. Supreme Court.

Recently, in *Ribaudo* v. *Nicholson*, 20 Vet. App. 552 (2007) (en banc), the CAVC rejected the Secretary's argument that he possesses the inherent management power to stay cases pending before the Board that are potentially affected by a precedential decision of the Court, and more specifically, *Haas* v. *Nicholson*, 20 Vet. App. 257 (2006). Instead, the Court stated that if the Secretary or Board wishes to stay the effect of *Haas*, the Secretary must file with the Court, or the Federal Circuit, a motion to stay the precedential effect of the Court's decision. The Court set forth detailed procedures for the Secretary to follow should he desire to have a Court decision stayed. The Secretary subsequently complied with the Court's request and in January 2007 filed an opposed motion with the CAVC requesting, in particular, that the Court stay the precedential effect of *Haas* pending judicial resolution in *Haas*. On April 13, 2007, the Court granted the Secretary's motion to stay in part. *Ribaudo* v. *Nicholson*, No. 06–2762 (U.S. Vet. App. Apr. 13, 2007) (en banc). Specifically, the Court ordered that the adjudication of cases before the Board and VA regional offices that are potentially affected by *Haas* is stayed until mandate issues in the pending appeal of *Haas* to the Federal Circuit. The Court did indicate, however, that the Secretary may consider motions for advancement on the Board's docket in cases to which *Haas* will apply.

Question 2. I was very pleased to learn that, in addition to providing expedited decisions to severely injured veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF), VA is now providing priority claims processing for all OIF/OEF veterans.

Question 2(a). Does VA have performance goals in place for those veterans' claims for the VA regional offices and the Board of Veterans' Appeals?

Response. The Board has performance standards in place for all its VLJs and staff counsel. These standards apply to the work they perform on all appeals considered, without regard to the particular period of service of the veteran. These standards stress the quality, timeliness and productivity of decisions.

Question 2(b). Would you please provide the Committee with an update on how many of these claims VA has received since these policies were instituted; how many of those claims have been decided and the average time it took to render those decisions; how many are still pending and how long on average they have been pending; how many of these claims have been granted and how many have been denied; what percentage have been awarded service connection with disability ratings in excess of 10 percent; what are the nature of the claimed disabilities and the disabilities for which service connection was granted; and what is the accuracy rate for decisions on these claims? If this information is not available due to data limitations, please provide the Committee with a time frame within which that information will be available and can be provided to the Committee.

Response. VA receives a data file from DOD identifying veterans who were deployed in support of GWOT. We match this data file with data from VA's information systems to track health care and benefits usage by GWOT veterans.

The most recent update from DOD includes veterans discharged through November 2006. This data file was compared to VA records through February 2007. This match identified 181,966 GWOT veterans who have filed a claim for disability benefits either prior to or following their GWOT deployment (approximately 26 percent of 689,317 total GWOT veterans).

Many GWOT veterans had earlier periods of service, and they filed for and received VA disability benefits before their most recent deployment. VBA's computer systems do not contain any data that would allow us to attribute veterans' disabilities to a specific period of service or deployment.

Of the 181,966 GWOT veterans who have filed a claim either prior to or following their GWOT deployment, 136,189 were awarded service-connected disability compensation, 17,241 were denied, and 28,536 have claims pending. Among those awarded service-connected disability compensation, 83,676 (61 percent) received a combined degree of disability rating greater than 10 percent.

The charts that follow provide a breakdown of those awarded service-connected disability by combined degree of disability and the most frequently claimed service-connected disabilities.

GWOT Veterans Awarded Service Connection by Combined Degree of Disability

Combined Degree (in percent)	Reserve Guard	Active Duty	Total
0	10,551	11,380	21,931
10	12,763	17,819	30,582
20	6,738	13,343	20,081
30	5,060	13,202	18,262
40	4,195	11,290	15,485
50	2,155	6,430	8,585
60	2,241	6,548	8,789
70	1,348	3,952	5,300
80	965	2,528	3,493
90	404	1,039	1,443
100	719	1,519	2,238
Total	47,139	89,050	136,189

Ten Most Frequent Service-Connected Disabilities for GWOT Veterans

[Both Active Duty and Reserve/Guard]

Diagnostic Code	Diagnosis Description	Count
6260	Tinnitus	39,120
5237	Lumbosacral or cervical strain	33,904
6100	Defective hearing	28,589
5299	Generalized, Elbow and Forearm, Wrist, Multiple Fingers, Hip and Thigh, Knee and Leg, Ankle, Foot, Spine, Skull, Ribs, Coccyx.	22,813
9411	Post-Traumatic Stress Disorder	17,644
5271	Limited motion of the ankle	16,907
5260	Limitation of flexion of leg	16,556
5242	Degenerative arthritis of the spine	12,834
5201	Limitation of motion of arm	12,127
7101	Hypertensive vascular disease (essential arterial hypertension)	12,084

We are unable to provide an accuracy rate specific to claims received from veterans deployed in support of GWOT. VBA's quality review program includes a random sampling across all claims filed for compensation and pension, including those submitted by veterans of this cohort. However, we do not isolate accuracy for any particular sub-group of the veteran population. We also do not yet have a means of separately track and measure timeliness of processing for GWOT claims. A reporting system is being developed to track these claims.

Question 3. In 2005, the GAO reported that there are "large performance variations" among the regional offices. For the lowest performing offices, would you

please provide a comparison of their performance outcomes to the national performance outcomes over the past 5 years?

Response. We are providing the data requested for the 10 regional offices currently experiencing the longest claims processing times. VBA has taken measures to assist with the processing of veterans claims at each of the listed facilities. For example:

• The New Orleans Regional Office (RO) was severely impacted by Hurricane Katrina. We have temporarily transferred ("brokered") work from this facility to other ROs with the capacity to process additional work to minimize the impact on veterans within that jurisdiction.

• The Pittsburgh RO was recently assigned jurisdiction of the overseas foreign workload. The processing of foreign claims takes considerably longer, as it involves working with foreign embassies to obtain medical examinations and other evidence. During the same period, the RO lost a significant number of its most experienced personnel through retirements.

• The Chicago RO received an increase in incoming claims as a result of the special Six State Outreach Initiative. We have authorized the Chicago RO to hire additional claims processors and have brokered work to other regional offices to better serve veterans in this area.

• To better serve the veterans residing in the Washington, DC area, the Roanoke RO recently assumed jurisdiction for the majority of claims previously assigned to the Washington RO.

• To improve benefits delivery to veterans served by the Los Angeles RO, jurisdiction of claims from veterans residing in Orange County, CA, was reassigned to San Diego.

Average Days to Complete	2002	2003	2004	2005	2006	February 2007
Nation	223.4	181.5	165.5	166.8	177.1	177.4
Washington	377.2	266.3	159.4	195.6	251.2	306.3
Pittsburgh	147.2	112.1	167.6	186.5	219.7	260.3
New York	273.6	230.0	207.4	188.8	229.6	258.4
New Orleans	166.9	150.3	156.5	153.8	269.4	249.3
Anchorage	287.9	232.3	187.4	190.7	241.8	247.3
Des Moines	223.0	217.7	191.4	209.5	221.4	245.5
Reno	329.6	261.8	197.6	187.6	203.9	239.9
Chicago	190.6	133.4	185.6	203.7	226.5	237.9
Newark	309.5	276.3	200.9	179.2	232.7	230.8
Los Angeles	239.6	217.4	206.3	211.6	237.4	226.5

Chairman AKAKA. Thank you very much, Mr. Terry.

I would like to now ask the Ranking Member, Senator Craig, for his statement.

STATEMENT OF HON. LARRY E. CRAIG, RANKING MEMBER, U.S. SENATOR FROM IDAHO

Senator CRAIG. Well, Mr. Chairman, first of all, let me apologize for being late, but especially to thank you for continuing to pursue the issue of claims processing on a timely basis and the appeals process. I know of nothing more important for the men and women who have served their country in the Armed Forces than to get a swift and properly designated decision as it relates to their disability resulting from their service. This is particularly important, I think, during a time of war when we have thousands of troops in Operation Iraqi Freedom and Operation Enduring Freedom separating from service each year, Mr. Chairman.

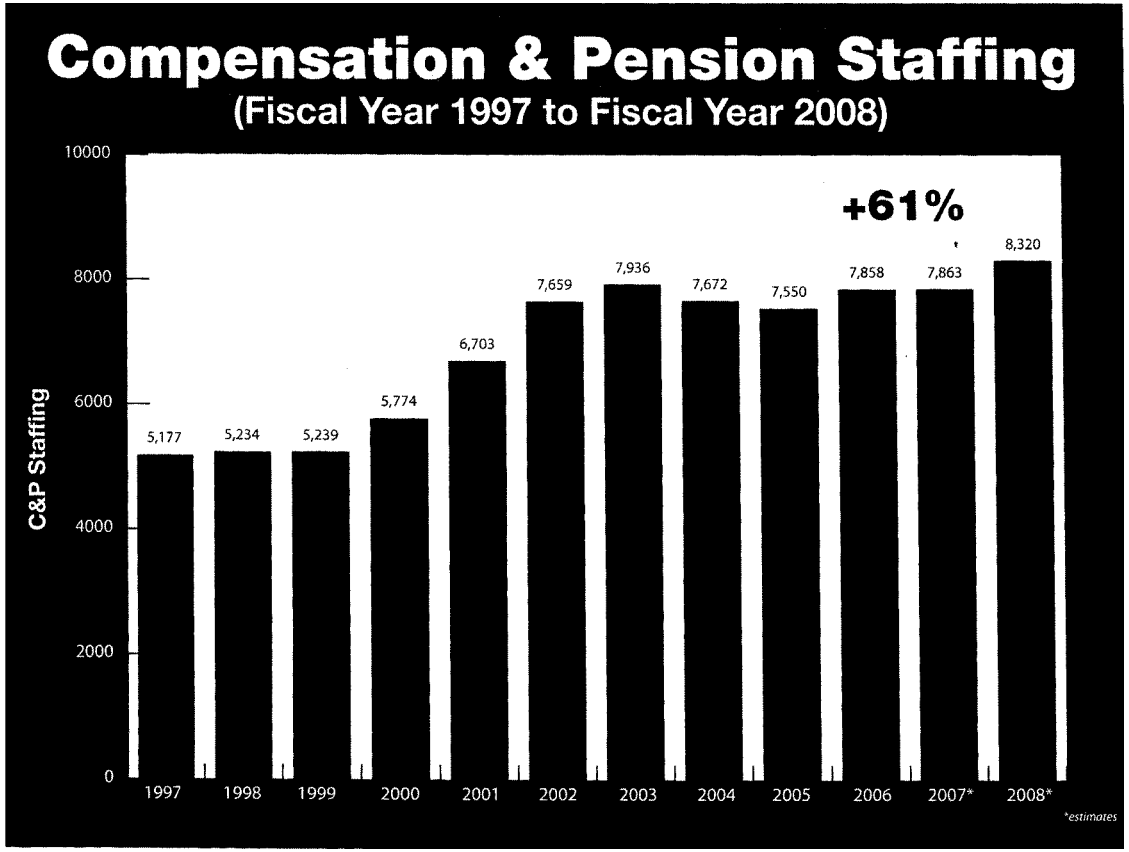
Every disability claim is extremely important; however, as I have previously stated, I believe that during a time of war, our focus must be on the needs of those returning veterans who for the first time are applying for their disability benefits. That is why I asked

the VA at several hearings over the last Congress whether disability claims for those veterans were being processed by VA on a priority basis.

At that time, VA was already providing expedited decisions for OIF and OEF veterans who became severely disabled during service. But as we all know, some disabilities such as symptoms of traumatic brain injury and mental health problems may not manifest until months after leaving service. So as you all will hear today and are hearing, VA is now giving priority to disability claims from all OIF and OEF veterans regardless of when their claim is filed. I think this is a significant improvement, and I commend Secretary Nicholson for instituting the policy.

That said, I think it is clear to everyone here that the system overall is struggling and that some veterans are waiting far too long for decisions. In recent years, VA has taken a number of measures to try to improve this situation by consolidating certain types of work, creating special teams, streamlining work processes, and instituting new training policies. We have heard about some of that in just the last few minutes. There also has been a significant focus on hiring additional staff. In fact, as you can see, I think, by the chart behind me, the size of the claims processing staff has been trending upward over the past 10 years. With the additional employees that Mr. Terry just mentioned, staffing will have increased from 1997 to 2008, if we can bring that budget on, by about 61 percent. Also during that period, funding for the Compensation and Pension Service will have increased 118 percent.

[Fiscal Year 1997 to Fiscal Year 2008 Compensation and Pension Staffing chart follows:]


Compensation & Pension Staffing
(Fiscal Year 1997 to Fiscal Year 2008)
C&P Staffing
10000
8000
6000
4000
2000
0
+61%
5,177
5,234
5,239
5,774
6,703
7,659
7,936
7,672
7,550
7,858
7,863
8,320
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007*
2008*
*estimates

Despite those dramatic increases in staffing and funding and VA's other efforts to improve performance, the number of pending cases has been rising and timeliness has been deteriorating. Although I hope that further increases in staff will help turn things around, I do not believe that simply adding employees is a long-term solution to our problem.

For many years experts have stressed that significant improvement may not be possible without fundamental changes, and that is to the design and the operation of the system itself. In fact, in 1996, the Veterans' Claims Adjudication Commission concluded that "the problems with the existing system are so many and varied that it cannot be fine-tuned into a system that will consistently produce timely and high-quality adjudicative products."

After years of struggling to improve the performance of the existing system, it may be time to acknowledge that those experts are correct, that we need to make fundamental changes to the system before we will ever see true, lasting improvement.

In that regard, as you can see by another chart behind me, Mr. Chairman, a number of specific reforms have been suggested over the years, such as closing evidentiary records during the appeals process, offering lump-sum payments to veterans with minimal disability conditions, updating the disability rating schedule, or removing redundant procedural requirements.

[Options for Fundamental Reform chart follows:]

Options for Fundamental Reform

1956 -- The President's Commission on Veterans' Pensions (the "Bradley Commission")

- Revise the Schedule for Rating Disabilities to reflect "up-to-date medical, economic, and social thinking with respect to rating and compensation of disability."
- Consideration should be given to compensate those rated "at 10 and 20 percent by an appropriate lump-sum or short-term settlement."
- Rates of compensation "should be geared to the prevailing average national earnings by some representative group of workers."
- Reasonable medical or surgical treatment should be required as a condition precedent to the payment of compensation.
- The duplication of disability benefits coverage under the military retirement program and the VA compensation system is "costly and not in accord with principles of good Government organization."

1996 -- Veterans' Claims Adjudication Commission

- Consideration should be given to establishing a "delimiting date for claiming disability compensation."
- Consideration should be given to lump sum disbursement policy for minimally disabled veterans.
- Eliminate the "Notice of Disagreement" and "Statement of the Case" process in favor of one formal appeal which must be filed within 60 days of a decision.
- Close the evidentiary record on appeal to the Board of Veterans' Appeals.

1999 -- Congressional Commission on Servicemembers and Veterans Transition Assistance

- Establish a commission to make recommendations for the redesign of VBA processes, information management systems, organizational structure, and infrastructure.
- Streamline the VA compensation and military disability evaluation systems by establishing a Combined Disability Evaluation Board.

2005 -- Government Accountability Office

- Consolidate compensation and pension claims processing into fewer regional offices.

It has also been suggested that VA could improve productivity and consistency by consolidating claims processing into fewer than 57 offices. Over the years, some offices have chronically underperformed, while others have routinely met or exceeded expectations. If veterans would receive better service by shifting claims processing to a higher performing office, that seems to be an option well worth considering. But whether it is that recommendation or others, I hope the Committee will take a very serious look, Mr. Chairman, at what options we have not tried. It seems that some believe the solution to every problem in VA is just more staff. I think we ought to look at the way we do it, the techniques, the style, the inconsistency.

Our colleague from Illinois, who is on this Committee, talked about decisionmaking in that office that was inconsistent as it relates to claims payments in other offices across the country. It is that kind of inconsistency that I think is frustrating us all. It is not to suggest that people are not working hard in most instances. But if the system is not throughputting in the way that we would expect it to be for the sake of the veteran, then I think we need to take a more serious look at it than just throwing money at the problem. We need to look at the fundamental system and how it works, or, as others have recommended over a period of several decades, fundamental changes are necessary.

Thank you very much, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Craig. I know you have been very passionate about this, and while you were Chairman you had, as you pointed out, several hearings on this subject.

May I now call on Senator Rockefeller for any statement he may have.

STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. Thank you, Chairman Akaka and Ranking Member Craig.

This hearing and those many hearings which are going to follow not only on this Hill but all across the country are going to be critical, because if you go back to the Vietnam War, you will remember it was really not until Admiral Zumwalt's son got and died from cancer that all of us came to really understand what Agent Orange was and fund compensation for those suffering from it.

If you go back to the Gulf War I, there are those who disagree—but I am not one of them. I think pyridostigmine bromide was a major factor in the illness that tens and tens of thousands of people across this country, many of whom live in my State and whom I visited and spent a lot of time with and who are completely disabled, that was a factor. Still to this day such veterans are shunted aside by the DOD and, I would have to say, by you simply because we are all working for the same purpose.

And now we come to today. I just want to read a portion of a letter from a West Virginian returning from Iraq, and he said, "When I contacted the VA office by phone, I was advised they are running behind and I would not be receiving my first disability payment for 6 to 8 months. My question is: How am I supposed to survive until

I start my disability pay? I have rent. I have a truck payment, utilities, food, child support to pay. Will I be evicted from my apartment and have to live in my truck until it is repossessed."

Now, that person spent 6 to 8 months in Iraq, and in closing, I just think there are so many issues—PTSD, traumatic brain injury, mental health problems—which have been talked about for years. I can remember that the conference committee of the veterans conference, in 1997, I believe, passed a long-term care policy for outpatient services. I do not think it has been particularly implemented. My dissatisfaction is not just with this chart, which is stunning, but with the degree of response and the particular kind of isolation that comes when you have 220,000, 250,000 employees and then you have them working in rooms without windows, many of whom never get out to see the people that they are serving because they cannot, jobs do not allow for that. It is sort of emblematic of Government not serving, not understanding, not knowing the people of America. And that is distressing, and I am glad, Mr. Chairman, that you and the Vice Chairman are having these hearings.

Chairman AKAKA. Thank you very much, Senator Rockefeller. I understand that you have other responsibilities this morning, and for that reason, I would permit you to ask any questions that you may have at this time before I call on other Members.

Senator ROCKEFELLER. I could not possibly ask a question before Jon Tester and Jim Webb made statements.

Chairman AKAKA. All right. We will ask——

Senator ROCKEFELLER. I am physically incapable of doing that. [Laughter.]

Chairman AKAKA. I will ask Senator Tester.

STATEMENT OF HON. JON TESTER
U.S. SENATOR FROM MONTANA

Senator TESTER. Thank you, Mr. Chairman.

Senator Rockefeller, I am not sure that my presence or Senator Webb's presence would stop you from asking questions, but we will take that as compliment. Thank you very much.

I am not going to take a lot of time right now because I do want to ask some questions later down the line. But I can just tell you this, folks, something to think about while you are sitting there: (1) I appreciate the job you do; and (2), when I go out in the field in the State of Montana and visit with veterans—and I have visited with a lot of them over the last couple of years—there is an issue about access. It is a real issue.

Now, in Montana, I will tell you that I have been through a lot of the veterans homes, and I have been through the facility there at Fort Harrison, and I can tell you that unlike what we see at Walter Reed, this is a top-flight facility and the doctors and nurses there do a tremendous amount of good work. But also in that case, we are burning them out. There is not enough of them. There needs to be more of them to provide the kinds of services that our veterans need in the State of Montana. And my guess is that may be symptomatic throughout the United States.

I have a concern with the budget that the President put forth. I do not think it is adequate. I do not think it is visionary at all

as we look at what the potential impacts of the veterans coming back from Afghanistan and Iraq are and the kinds of impacts that they are going to have on the system.

But as for right now, I can just tell you this, Mr. Chairman, Members of this Committee, everywhere I go in Montana, every veterans group I visit within Montana talks about access and talks about delays and talks about the inability to get in and get their treatment, to the point—and I am looking at some of the documents here that talk about a 111-day average. That is not what I am hearing in the field. I am hearing "years." And that is not acceptable. In some cases, 111 days is not acceptable, but it is a heck of a lot better than years. But ultimately, in the end, what I hope to have accomplished from this hearing is that we really do get the kinds of benefits for veterans that they deserve across the board for all of them, the ones inside the system and the ones that are trying to get into it.

So thank you very much, Mr. Chairman.

Chairman AKAKA. Thank you.

Senator Jim Webb?

STATEMENT OF HON. JIM WEBB,
U.S. SENATOR FROM VIRGINIA

Senator WEBB. Thank you, Mr. Chairman. I just would say very briefly at the outset that having participated in the Armed Services Committee hearing yesterday, as did you, with respect to what I think a number of us are beginning to realize is kind of a systemic breakdown in the transition of people from active duty into the veterans community, I am really grateful that you and Chairman Levin are going to continue to look at that through joint hearings. I think that is probably the key issue on the table here. It affects how people are being processed out of active duty, not only on the medical side, but on a wide variety of areas. It affects priority of leadership, where we are putting our money, where we are putting our energy. And it also, I am sure, manifests itself in the workload that you are receiving over here in the Department of Veterans Affairs.

I have some questions that I want to ask at the appropriate time, particularly with respect to whether there are some specific ways to address the nature of this backlog, other than simply the volume of it. I will refrain from asking those questions at this time, and I appreciate being a part of the hearing.

Chairman AKAKA. Thank you very much, Senator Webb.

We will now go into the questioning period, and as I tried to do, I am going to ask Senator Rockefeller to begin with his questions. Senator Rockefeller?

Senator ROCKEFELLER. Thank you, Mr. Chairman. I will just pose a couple—no "just" in front of that. I will pose a couple.

I do not know whom to address this to, and I do not have time to have everybody answer it. So you will have to make that judgment.

What is the VA doing to ensure that it can address the influx of claims that are resulting from the war without increasing the already unacceptable waiting times? That's question number one.

You estimate that the number of claims will essentially flatline in the future. I do not understand how that can be possible, not only in terms of the so-called escalation, or whatever, in Baghdad. Do you or do you not have a plan for the surge in claims and cases that will obviously follow from that?

Mr. COOPER. Senator, let me first address what we are doing for the veterans coming back right now to expedite their claims. The Secretary has directed and we are, in fact, moving to make the people coming back from the Global War on Terror the priority. As a result, any claim we get that is from such a person, we will make it the priority; we will identify it as such at the regional office.

About a month or two ago, we started working with OSD on getting a definitive list of names of people who are considered GWOT veterans. As we get names, we compare them with all the claims that have come in and specifically pull out those claims that have to do with GWOT veterans who have filed claims and we prioritize those.

In each regional office we have designated several people to specifically address that group. We have also set up what we call a Tiger Team at five resource centers, which will work claims for those regional offices that are overburdened.

So that is what we are doing that is different than we have done before——

Senator ROCKEFELLER. Could I ask within that question, is there a possibility—or does it already exist—of simply having DOD which would keep obviously the battlefield injury records, simply transfer them by computer directly to you so that they are immediately available to you?

Mr. COOPER. Senator, I do not think they have that capability. We get the names, but the medical information we need comes to us, as it has for all these years, in paper files. Trying to get those is indeed a problem that we have. We are trying to set up a program whereby we get that information early for those people who are filing for disabilities so they will have their medical record as they get out of the service. And that is——

Senator ROCKEFELLER. That is Gulf War I all over again.

Mr. COOPER. What I am saying is that information is not available to us directly from OSD.

Senator ROCKEFELLER. Has there been any discussion you know of—there are a lot of computers in the battlefield. That was not the case 10 years ago, 15 years ago. Has there been any discussion of that? I cannot think of anything that strikes me as more sensible than being able to transfer information. Now, in this case of pyridostigmine bromide, a lot of soldiers would take it for a couple of days. They would start getting sick. They would stop taking it. So the recordkeeping was bad. But when you have injuries and clear medical histories and that has to be written down by hand as opposed to the hundreds of thousands of computers that are on the battlefield and in the hospitals in Germany and elsewhere, it would strike me as something which is either eminent or imminent.

Mr. COOPER. In this case it is not.

Senator ROCKEFELLER. Why?

Mr. COOPER. I cannot answer that question.

Senator ROCKEFELLER. Has anybody discuss that?

Mr. COOPER. Oh, yes. There is ongoing discussion because of the medical records that we have in VHA that are electronic. I do not want to throw any stones, but the fact is that the medical records that we get to adjudicate a claim are paper. We get files.

Senator ROCKEFELLER. Your records are, in fact, the best in the health care system in this country. That is what I understand.

Mr. COOPER. Yes, sir.

Senator ROCKEFELLER. So what is it possible for you to do to create enough ill will and pressure to try to get the DOD to do something which is reasonably similar?

Mr. COOPER. I would say to you that there is a Joint Executive Committee which meets every 3 to 6 months, and there are two ancillary Committees: one is Health, which does address that part of it. (Of course, on the Benefits side, we have a Subcommittee on Benefits.) It is discussed, and I do know that there are plans that OSD is working on to get into the modern era with records. But they certainly are not there now.

Senator ROCKEFELLER. Thank you, sir.

Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Rockefeller.

And now we turn to Senator Craig for his questions.

Senator CRAIG. Mr. Chairman, Senator Rockefeller has touched on something that I think has been frustrating to us and to VA for a long while, and I do not know what it takes to turn a battleship around, other than to hit it with a torpedo, maybe. But, Senator Rockefeller, we had DOD records accessible to the VA medical facility in Richmond so that for these traumatically injured—we could look at their records. Then we had a decision made by an attorney who said, "Well, you should not be doing that. There may be some liability here," and it was stopped. And we intervened, and it got started again.

Also we have a new naval facility up in Illinois where the Navy and VA and the hospital are working side by side now so the new incoming Navy men and women will have a joint record, and it will be Navy/VA.

Here we have a modern military and still have no ability to transfer records. It is just mind-boggling to me, and Dan has talked about it. It still comes in a paper file. We are proud at VA that we are the most sophisticated medical recordkeeping health care delivery system in the country, but we have to re-create medical records from paper to digital coming from the most modern military system in the world.

Senator ROCKEFELLER. At the same time as we have VA hospitals and DOD hospitals increasing in their collaboration.

Senator CRAIG. Yes. So, I mean, it is a very slow start, but it is a very inconsistent start, and, therefore, it is phenomenally frustrating to those of us who have tried to nudge this along. To talk seamless transition and not have immediate record transition, electronic record transition, is, in fact, not seamless.

As I said, we are nudging it along. It is starting. But as I say, I do not know how you awaken DOD to the modern reality of electronics.

I hope I am expressing my frustration to the Committee that we have been working at this for some time and getting nowhere.

Senator ROCKEFELLER. Again, with the forbearance of Senators Tester and Webb, I would simply add this. When one comes into an office where there are piles of records, paper records all over the place, all motivation, all psychological motivation for I have got to get this one first, that one second, and I have got to get it done, I have got to drive and motivation disappears. I think that is in the nature of human beings. People go down the list, go down the pile, but the urgency and obviously the timeliness of it completely disappears.

Senator CRAIG. Yes. Well, I have taken most of my time. Let me ask one question because there is progress. VA, as I mentioned in my opening statement, is moving all of our OIF/OEF folks to a priority position, but there is still the whole issue of long-term adjudication and timeliness. And I have talked about whether you can just keep pushing things through the same system expecting a timelier response by adding people. And I guess both to you, Admiral Cooper, and to you, Mr. Terry, would it make sense to examine and look at the potential to reduce the number of offices that are processing disability claims, particularly if that means removing that function from offices that routinely underperform, and expanding, modernizing those offices that do perform and demonstrate expertise, and move ourselves to a higher level of performance as it relates to these kinds of claims? I understand the sophisticated character of what we are doing here and the allocation of resources that ultimately transpires and the importance of that resource not only to the recipient but the impact of it on budgets and Government and all of that. So it is a fine thread. I understand that.

But I do not know of anybody in the private sector that would tolerate a claims adjudication in the untimeliness that happens at the Federal level with VA. How do we fix this beyond just pushing more staff at it? Or is that the answer?

Mr. COOPER. Well, that is certainly predicated on the paper claims we get. That has to be part of the answer, and we have asked for an increase in people. But we have been looking at consolidations. One thing we need to do is to get some of these more difficult types of claims consolidated. Radiation is a primary example and we have moved those claims in the last 6 months to Jackson, Mississippi. That way we do not have people who are doing relatively standard types of claims, although somewhat complicated, suddenly diverted to doing a a type of claim that they only did once last year and they have only one this year and so must go back to the books and relearn how to adjudicate it. So we did that with radiation. We have done that with other types of things, like CLL.

What I have tried to say is that there are some difficult types of claims that can be moved to a given regional office and, therefore, any of those claims that come in anywhere are consolidated there.

A second item is——

Senator CRAIG. So you are suggesting that within these 57 offices, you are developing—your idea is to develop levels of expertise

on certain types of claims, and they go to a certain office where that expertise rests.

Mr. COOPER. That is one aspect. The other aspect is that there are several regional offices that are not as productive as they should be. And so, as you know, one of our processes is brokering; namely, if one office has too many claims and I have the capacity in another office to adjudicate those claims, I will transfer those claims to that office and, therefore, try to use our entire operation to do these claims. But I agree with you that we should be able to get into a better consolidation program whereby we have fairly large regional offices in specific parts of the country and then other small offices that are more intake sites. I set up a model for that with benefits delivery at discharge where, at 140 facilities around the country, Army, Navy, DOD facilities, we have a group of two, three, four people who take in claims from young men and women leaving the service, getting all the information they can. We have requested they take in all those claims for disability 60 days ahead of their getting out of the service. That way we can take advantage of getting the medical exams that are necessary. We can take advantage of getting their medical records right there and, having put all that together, then we have two sites that we send them to for adjudication. One is Winston-Salem and another one is Salt Lake City.

I see that as a model to work toward where we have intake sites at various places and then larger regional offices to do the adjudication.

Another problem I have to look at, however, is what is the optimal size for a regional office before the workload becomes so burdensome that it is not run effectively. I am trying to look at that. As I say, I am trying to use BDD as a model.

So there are two types of consolidation: one is having larger offices that are good offices and have a good group of people process claims sent from intake sites; the other type is taking the harder-to-rate types of claims and have them moved into one office so we have people that become experts at working those cases.

Senator CRAIG. I have taken all the time, and more. Yes or no: Are the movement of claims between these offices electronic?

Mr. COOPER. No, sir. You are sending the files. They absolutely are not electronic and that is one of the problems we look at very carefully because of security. We work with the company that has that contract, and we have to make sure that the files leave properly, are properly tracked, and properly arrive.

Senator CRAIG. Thank you, Mr. Chairman.

Chairman AKAKA. Thank you, Senator Craig.

Admiral, you mentioned that the Secretary has asked you to set up a system to prioritize claims submitted by those who participated in the Global War on Terror.

My concern regarding this priority is the effect of prioritization on the claims of all other veterans. And my question to you: Are measures being taken to ensure that all other veterans with claims in the system are not adversely affected by the prioritization of Global War on Terror claims?

Mr. COOPER. The answer is yes, sir. On the other hand, there are only so many priorities and, as a result, I imagine that other pend-

ing claims are going to take a little longer. However, we have increased overtime.

We also have authority to get retired annuitants to come back and adjudicate claims for the Tiger Team in Cleveland that I mentioned. That Tiger Team was set up shortly after I came on board by Mr. Principi to take care of veterans who are 70 years old and older and who have had a claim that has been pending for a year or more.

When we started that process 5 years ago I think we had about 15,000 claims in the queue. We now have about 2,000. And we did bring on recently about 24 man-years of retired annuitants to help us in that respect.

Chairman AKAKA. Admiral Cooper, let me ask something that is somewhat outside of the scope of today's hearing. I would like to get some preliminary information on the record regarding the Benefits Delivery at Discharge program.

Mr. COOPER. Yes, sir.

Chairman AKAKA. Can you share with the Committee where BDD is currently active and to what extent it is catering to military transition facilities, such as Walter Reed, where a large number of seriously injured servicemembers are being cared for? Also, can you describe what costs would be associated with expanding BDD services to reach, again, all seriously wounded servicemembers and get them into the VA compensation system upon separation from the armed services, including the Guard and Reserves?

Mr. COOPER. Yes, sir. Mr. Chairman, there are two separate questions there. One question is how are we dealing with the seriously wounded who come into Walter Reed or Bethesda and eventually get to about eight military facilities around the country. That is completely separate from Benefits Delivery at Discharge because we have prioritized these veterans since 3 years ago when Secretary Principi set up what he has called the "Seamless Transition Program."

We have people at Walter Reed, at Bethesda, and at the MTFs who contact the young men or women, the service personnel, and their families and try to explain, when they are ready to receive that information, everything that we can tell them about benefits. Then we try to make sure that, as they leave Walter Reed or as they leave other MTFs, we have gotten all the medical information necessary to adjudicate the claim. Our goal is to have the claims as soon as we receive notice that they are out of the service, the DD214 in hand, which we have to do by law. We then adjudicate the claim, and our goal is to have them receiving pay as soon as possible, about 40 days after they are out of the service. That is the way we have consistently been working with these seriously wounded the last 3 years.

Now, once in a while there are some that fall through the cracks. That is terrible. As soon as I find out about that, we jump on it and take care of them. But, in general, that is the way the system operates.

The BDD system, on the other hand, is strictly for those people who are leaving the service or retiring and we tell them they can come to us 180 days before they get out, but at least if they come

in 60 days before we should be able to adjudicate their claims under Benefits Delivery at Discharge. So, shortly after they are discharged, they will start receiving whatever disability benefits that they are allowed by the system.

There are also those who, as they get out, do not want to file for benefits so soon or, for some reason, cannot come to us at the military facility where we have people. They may come the week before they leave or a couple of days before they leave. We then take their claim and send it to the regional office of jurisdiction where they are going to finally be located. They have to tell us where they are going to move. Then we get the records to the regional office that has that jurisdiction. So, we are talking about two separate programs here.

Last year, we were able to adjudicate our BDD claims in about 64 days. That is, if we can get the medical record early. That is a primary component, getting the medical record the man or woman has as they leave the service.

Chairman AKAKA. I also asked, so it becomes three parts of that question, and that was the cost of expanding BDD services and the costs associated with that.

Mr. COOPER. I will take that question for the record. I cannot tell you the cost. However, let me say that last year we could have taken in many more claims. The problem is contacting people, as they are getting close to getting out. We try to make ourselves available. We make presentations. We reach out to them. Right now I do not feel it would be effective for us to have more than those two sites for adjudication and, as I say, 140 sites at various military facilities to have an intake for all of those claims.

Chairman AKAKA. Thank you. Well, we have a second round.

Senator Tester?

Senator TESTER. Mr. Chairman, I just want to make sure I heard what I heard here a bit ago, and it deals with the forms you receive from DOD are all paper copies.

Mr. COOPER. Yes, sir.

Senator TESTER. Those files.

Mr. COOPER. Yes, sir.

Senator TESTER. Has there been any effort to make those electronic?

Mr. COOPER. This has been discussed, and I think you will find that on the VHA side or the medical side they have been talking and I think OSD is moving forward on a program. But this is still under discussion.

Senator TESTER. Because if it revolves around the security issue, that is not reasonable.

Mr. COOPER. I did not mean to say that. I thought I was talking on another subject.

Senator TESTER. OK.

Mr. COOPER. Once we have these records, we want to broker them to another place that has the capability to process them. We have to send these records and they are paper records.

Senator TESTER. OK. You know, you have got a lot of smart people working for you, and I know there are a lot of smart people in every area of Government—DOD, all down the line. We are well into the 21st century here, and, quite frankly, being a farmer, I

would probably be the last one to tell you this. But if it was not for electronic communication, it would be very difficult to do my job. This is a tremendous impediment for you, and I know you cannot do it alone, but it would seem to me that it would help everybody in the system if there was some sort of standardization in electronic availability of these records. If you want to address that, that would be great.

Mr. TERRY. Thank you very much, sir. I would like to address a different aspect of it. While DOD, as the Admiral has said, is moving, like we are, to an electronic system—and we hope to have them there before too long. I know when I was in the Marine Corps, that was a big push by the Marine Corps to get our records more effectively reproduced in electronic fashion.

Let me just tell you one concern we have and one of the things we are working with the court system on. Rule 9, for example, of the Court of Appeals of Veterans Claims requires at this time that they have a total paper record before they will consider an appeal. And the Court of Appeals for the Federal Circuit requires the same thing in very much a similar rule to Rule 9 of the Court of Appeals of Veterans Claims.

So those are challenges we are working with those courts to change as well, and we are working very hard to do that. We expect that within the next year or two, we will have that fixed. And that is something that Admiral Cooper and myself and our staffs have been working with the court to change, because as long as we have to have this paper record in total form before they will process that appeal, and if it goes to those courts—and, of course, each one of our veterans has an absolute right to do that—we are going to have to maintain those paper records. And that is one of the things that has really been holding us up.

But as I say, Senator, we are working very hard to change that, and we are pushing the court to do that.

Senator TESTER. Well, you know, I just think that you are going to be pulling a plow for a long time until you get this situation squared away. You know, in 1985, this was probably a good way of doing it, but we are well beyond that.

I just want to touch on the interface between—for providing services. You know, as an elected policymaker, I really depend upon the bureaucracy to really do a good job. I can appropriate all the money, and I can have all the good ideas, and if it is not implemented and the money is not spent right, it does not do one bit of good. And I have got to tell you, over the last 2 months you deal with a myriad of projects, and I could go down the list, but it would take all the time. You know what I am talking about.

This is another one of those projects, and it is a project for me that really hits home, because we have got a lot of veterans in the State of Montana, and from a pure principle standpoint of what is right for this country to be doing, it makes no sense to me that DOD and VA are not just working hand in glove to make sure of the transition and make sure the people get the services they need.

And when we talk about the priority for the veterans now coming back from Iraq and Afghanistan, I really applaud that. But I think you also need to know that there are a lot of veterans out there from the first Gulf War, from Vietnam, and before—they need help,

too. And I would hope that they are not forgotten about, and I know they will not be.

But the bottom line is this: I really think that I cannot fix this for you, and if it is a turf war, it needs to be put aside. But there is a problem here. There really is a problem here. I hear about it way too much for it just to be some disgruntled veteran that is not happy. I hear about it everywhere I go. And my question is: Do you have people within your staffs that have solutions on how to fix this? Because, quite frankly, if you do not, we are really in trouble.

Mr. TERRY. Senator, I think we do. I think everybody in our staff, whether it be Admiral Cooper's staff or my organization or in the Secretary's office, is adamant that we will find solutions. For example, there is a meeting tomorrow with DOD on many of these same issues. One of the Committees is meeting, and that is an ongoing process. People are not hesitating to come up with good ideas and try to make it work. Sometimes we have existing regulations that make it more difficult.

For example, in the appeals resolution time that I deal with every day, we have 330 days of built-in mandatory waiting times in that process. So before—we have to give 60 days after receipt of the NOD to offer the DRO process, have to make that available, have to give them that much time before we can move on because we do not know what they are going to give us during that period of time. And there are seven or eight periods like that that we are dealing with. If we can cut it down to 30 days—and there is no reason we could not, with the kind of representation. Those are the kinds of things we are recommending.

Senator TESTER. Can that be done administratively or does that have to be done at this level?

Mr. TERRY. Some of it has to be done at your level. Some of it we can do by regulation. I had a chance to talk to your staff director a couple of weeks ago, and he had some great ideas, too. And we are working with your staff, hopefully, to make some of those kinds of changes.

Senator TESTER. I would love to have—and the sooner, the better—the recommendations you have to help expedite this process, because then we can really start moving forward, I think, on getting some things done that really help the people on the ground.

Mr. TERRY. Absolutely, and we agree. While these were well intentioned, were designed to provide rights at one point, now they are really slowing down the process on behalf of the veteran, and we need to fix it. I agree with you.

Senator TESTER. I am just guessing, but my guess, part of that has to do with the paper form. And if it was done electronically, you could cut a lot of those days out.

Mr. COOPER. Senator, could I ask you a question or make a statement? I want to make a statement.

Senator TESTER. You can ask me a question, too.

Mr. COOPER. I am retired military, and the thing that strikes me is: Why don't we take an individual that comes into military service and, from then on, everything that is done, that information, also comes to the VA, because that individual is going to be a veteran. It is one individual. Why do we have to suddenly, OK, now you are no longer military, now you are a veteran, and now we do

this. It seems to me that type of thing is the type of thing that could help.

Senator TESTER. Thank you, and I agree.

Chairman AKAKA. Thank you very much, Senator Tester.

Senator Webb, and you will be followed by a statement and questions from Senator Obama.

Senator WEBB. Thank you, Mr. Chairman.

Admiral Cooper and Chairman Terry and others, I would like to emphasize something that I said in my opening remarks, that this is the very beginning of an ongoing process, at least in this Congress, for us to try to address this kind of abyss on both sides, from moving people out of DOD and hitting the wall here with the VA and the DVA, and there will be many other hearings.

I want to say I regret, as soon as I finish my statement, I am going to have to leave. King Abdullah of Jordan is making a presentation to a joint session. I would like to hear what he has to say. But what I would like to do here is to follow up a little bit actually on what my partner, Senator Tester, was talking about because I have a lot of the same concerns, and also to suggest sort of an analytical matrix here, where at least from my perspective we might move forward.

I, like many people here, have a long institutional memory with respect to the area of veterans law, and I think as we are moving forward, we need to tap into that institutional memory to give us a better understanding of where things are right now, what is different and what is the same.

We have always had the difficulty, particularly in a period of wartime, of the VA being able to absorb veterans and treat them fairly and those sorts of things. And I do not think there is any group of more well motivated people that I have ever worked with than people who work in veterans law and the hospitals and all these areas. I hope we can really do some honest analysis here about where the breaking points are. We tend to focus on sort of the issue of the moment or some legislative piece or those sorts of things. But I think I would like to start by going back and looking at things like examining fairly the impetus for this dramatic increase in claims. Some of that is societal when you look at what has happened in the breakdown of the medical system, writ large, and people just wanting to get into some medical system that will take care of them.

I am wondering, having spent a number of years in veterans law, and also at a point in my life doing a lot of pro bono work with veterans, whether actually the standards themselves have remained the same—the law is pretty much the same—whether the standards really have remained the same, and whether the evaluators being trained now understand what the standards are so that they can move these claims with a note of certainty about them, not wanting to be second-guessed. You know, sometimes people are going to be turned down. That is just the way it is. But when they are, they have to understand—everybody has to understand—this is done fairly and these are the standards, they are the historical standards.

At the same time, are the claims more complex now? I am hearing that people are coming up with seven and eight items on a

claim, so one claim takes longer just by the nature of the way they are being presented. I am curious also about the impact of attorney representation, particularly at the claims level. Is it going to slow it down? Has it slowed it down?

And if you look on the other side of that, I know when I was doing a lot of work in veterans law, the veterans service officers were highly trained from the service organizations, and particularly the DAV, if I may say. They had a tremendous program, and I know they still do. But is that still the same, writ large, among the Veterans Service Organizations? And is the body of people separate from attorneys?

I have strong feelings about the notion of requiring a veteran to pay. I do not have strong feelings about allowing a veteran to have a lawyer, but I think requiring a veteran to pay, particularly on a contingency basis, when some of these claims are so minute, I just have a problem with that personally, having helped people and been through the system as a lawyer helping people at different times in my life.

Those are the kinds of things, I think, we are going to look at from my staff, and Mike McGarvey, who is working with us, and who has got a long history of working with the VA. Those are going to be the starting points for us in terms of trying to deal with this fairly and trying to find out where the breaking points are and how we can help move toward a solution.

And I would make one other comment with respect to what Senator Tester said about moving from paper to software. We are going to be taking a hard look at what the Marine Corps is doing. You know, Chairman Terry, you mentioned the Marine Corps. And, of course, when you and I were beginning in the Marine Corps, the Marine Corps was kind of the joke among the services about not being able to do paperwork and that sort of thing. Who is going to fill out the unit diary? Who wants to be an 01, you know? But they have done a marvelous job. From what we are hearing, they have got a great software program.

I take your point about the certification process, moving into what you were calling Rule 9. There are ways that we might be able to move around that, but we are going to be looking at the Marine Corps system, and perhaps there is something there.

Mr. Chairman, I thank you for the time.

Chairman AKAKA. Thank you very much, Senator Webb.

Senator Obama?

STATEMENT OF HON. BARACK OBAMA,
U.S. SENATOR FROM ILLINOIS

Senator OBAMA. Thank you very much, Mr. Chairman. Thank you, gentlemen, and I apologize that I did not hear you present your testimony, but I have had a chance to review some of the issues. And I just want to pick up on a couple of themes that I suspect were already discussed, but bear with me if I am being repetitive.

The first point, just on DOD coordination, can you reiterate for me, (A) What is being done to integrate VA and DOD disability review processes more effectively? and (B) What other steps have been taken by the VA to follow GAO's previous recommendations

that regional offices use an alternative resource for obtaining military records prior to going through the inadequate Joint Services Records Research Center? As I think you are aware, that takes about a year. If you can just tell me how we are doing on that front and what steps we are doing to improve it.

Again, this may have already been covered during the testimony. If it was, I apologize.

Mr. COOPER. No, sir, it has not been.

First, as for the disability process, of course, we have our own. And, as you have seen in the paper, when a person goes before the PEB, the Physical Evaluation Board in DOD, nobody from VA is present. There is no integration in that respect. And they make whatever decision they make.

Then the veteran comes to us and comes through our completely separate system. What I can tell you is that, as of 2 days ago, I got a call from people in OSD saying that we need to get together and talk about this.

The issue of not necessarily merging, but certainly working together between the military and the VA is something that is in the embryonic stage and will certainly be pushed. But up until now, not too much has been done.

The second question that you asked—do you want me to go on to the second question?

Senator OBAMA. Yes, please go ahead.

Mr. COOPER. The second question had to do with what we are doing about medical exams. You spoke of getting medical exams. There is the record center in St. Louis where we have to go for records of older veterans, that is, veterans who never filed a claim but, after 20 years—and this is true with many Vietnam veterans who are now having effects of Agent Orange—file a claim. One of the things they must do is to show that whatever disability they are requesting compensation for has a genesis to service. If it is Agent Orange related, we must establish that they were, in fact, in Vietnam, and that sort of thing. We have to have some kind of proof of that. So many times we have to get their record because they have retired and the record has gone to St. Louis to the archives there.

We are now working on a process where we can try to determine this ourselves to the best of our ability as far as what—in PTSD, for instance—the stressor is, what happened to them that might have caused stress and, therefore, caused PTSD.

What we are trying to do now through this program that we call Benefits Delivery at Discharge is to encourage everybody who is leaving the service to come see us immediately. We have 140 locations at military sites around the country where they can come in and bring their record, and, therefore, we have their record. If they bring it timely (and they can do it up to 180 days before they get out), then we can adjudicate that claim and have them start getting paid shortly after they leave the service. It is a benefit to them and to us. It is a benefit to them because they get the disability payment sooner. It is a benefit to us because we now have the medical record.

For older claims, we still have to go to St. Louis many times to retrieve records. For younger veterans, we are trying to get the records as soon as possible.

Senator OBAMA. I am running short on time, so let me shift to the issue of staffing levels. I think it is fair to say that a number of us on this Committee have been skeptical about some of the agency's assumptions regarding the anticipated number of claims in Fiscal Year 2008. You have stated that number at about 800,000.

Mr. COOPER. Yes, sir.

Senator OBAMA. Could you discuss in a little more detail the assumptions the VA has used in reaching this number? Because we are seeing a 39 percent increase in claims since 2000, a growing number of returned servicemembers from Operation Iraqi Freedom and Operation Enduring Freedom. On that count alone, there are some 631,000 discharged servicemembers who are eligible for some form of care or benefits within the VA system. Just give me some sense of why it is that you think there is not going to be substantial growth in this area. And as you know, we have got a record on this Committee of having to deal with emergency supplementals mid-year because of poor planning and anticipation of the needs of our veterans.

Mr. COOPER. Yes, sir.

Senator OBAMA. So give me some reason why I should feel a little more assurance that these numbers are solid.

Mr. COOPER. We have a model that we use. The primary component of the model is the size of the active duty Reserve and National Guard. Over the last 3 years, our estimates of the number we expect to get, not counting changes that occur from the time we put it in the budget until execution of the budget, our model has been within about 1 percent. The 600,000 or so that you mention are those who are now veterans coming out. The number of those who have come to us, including the seriously wounded and others who have have attained veteran status, is about 27 percent.

The main point I want to make is that part of the model is predicated on the number on active duty, assuming a certain percentage of everybody on active duty will eventually file a claim. It has been correct within about 1 percent for the last 3 years. I can get some more information on the model and answer that for the record.

Senator OBAMA. I would like to get more information on that.

Mr. COOPER. Yes, sir.

Senator OBAMA. If you could work with my staff to make sure that we have that information so that we can follow up on that.

Mr. Chairman, I thank you for the time. I would ask unanimous consent to place my written statement into the record.

Chairman AKAKA. Without objection, it will be placed in the record.

[The prepared statement of Senator Obama follows:]

PREPARED STATEMENT OF HON. BARACK OBAMA, U.S. SENATOR FROM ILLINOIS

Thank you, Chairman Akaka and Senator Craig, for holding this hearing.

Over the last few weeks, the Nation's attention has refocused on the moral question of how we are caring for our returning heroes and their families, from the moment they return from combat, to their recovery as outpatients, and to their transition and well-being as honorable veterans. Gut-wrenching revelations of unneces-

sary red tape and unacceptable delays compel us to fix and more vigilantly monitor those agencies and systems that are charged with the sacred duty of healing our warriors and guiding them through the process of getting the benefits they deserve.

If the problems at Walter Reed represent the tip of the iceberg—and sadly, I'm afraid that this is the case—then we are required to re-examine all aspects of our care system for servicemembers and veterans. And in this effort, I am deeply grateful to Chairman Akaka for his leadership on these issues.

Today we hear from the Veterans' Administration (VA) and the Board of Veterans' Appeals (BVA) on their efforts in reducing the VA's claims backlog, and the other steps underway to better manage and shorten the turnaround time for compensation claims and service delivery. I want to join my other colleagues up front in stating that the President's budget request for the VA is inadequate, as is the number of new Full-Time Equivalent (FTE) positions proposed to meet the growing demand of increasingly complex benefits claims.

I was proud to join Chairman Akaka and other Members of the Committee in calling for an increase of nearly $2.9 billion in additional VA funding above the President's request. A portion of this funding will enable expanded hiring of claims workers so the VBA can better handle its workload and reduce the backlog. While we want to find ways to reduce error rates and streamline processes where possible, we cannot lose sight of the fact that these cases are increasingly complex and highly variable. Ultimately, the claims review and adjudication process is a human one, and we need to make sure we have a sufficient number of highly trained experts to shepherd our heroes through this process.

Chronic understaffing and underfunding are only part of the problem. I continue to share the concerns of my colleagues that a lack of coordination and information sharing between the DOD and the VA exacerbate the delay in claims decisions, especially in the evidence gathering phase of the process. I have sponsored legislation, the Lane Evans Act, which would in part address this problem by requiring the Department of Defense to provide each discharged servicemember with a complete electronic file of his or her military records, including medical information. I hope the Committee will consider this legislation this year.

Finally, I share the assessment of the Government Accountability Office (GAO) and our Veterans Service Organizations that we need to take one step back and look at broader issues that confound the current claims adjudication process, and how we might ensure the VA has the resources it needs to get the job done as we welcome a new generation of veterans home. I look forward to working with Chairman Akaka, the VA and our other partners in addressing this great national challenge.

Chairman AKAKA. Thank you very much, Senator Obama.

I would like to continue with a second round of questions, and to Admiral Cooper, this is something that goes outside of the scope of this hearing, but I wanted to ask you for some information that you can send me.

Mr. COOPER. Yes, sir.

Chairman AKAKA. I wanted to tell you about this concern that I have given the types of injuries that are occurring as a result of the Global War on Terror.

According to the rating schedule, headaches caused by brain trauma are limited to a 10 percent rating. However, migraines can have a rating of up to 50 percent. I think that we need to be sensitive to the types of injuries that are occurring to our newly separated servicemembers and make certain that the rating schedule appropriately reflects the effects of their disabilities.

Admiral, can you then please send me the rationale for these differences and the rating schedule and any direction that has been given to the field regarding rating these conditions?

Mr. COOPER. Yes, sir. I will have to take that for the record, and I certainly will.

Chairman AKAKA. Thank you.

Mr. Terry, it appears that there is still a gap between the Board's decisions and the Court of Appeals for Veterans Claims determinations. Of the 2,135 merit decisions made by the CAVC in

Fiscal Year 2006, only 440 cases were affirmed, while 518 were reversed, vacated, or remanded, and 847 were simply remanded for further action.

I would like some comment from you on these figures, and do these numbers concern you?

Mr. TERRY. We have a system, sir, which allows information to flow to the deciding body, whether it be our Board or the court, in terms of new information concerning certain types of disabilities in a way that is very, very different than any other appellate process. And while certainly when you talk about 518 reversed or remanded, many opportunities exist for the court to affirm on any number of the issues before it, but there may be one or two that they send back for additional information because they are not satisfied in terms of a remand. So these 518 cases may not all be in any way totally reversed or require total redress. Many of the issues are affirmed.

So I think it is important that we understand that this is a very unusual process where information—the record is never closed until it gets to the court—and so consequently, you have to appreciate that these are cases where we are trying to reach out and provide the benefit to the veteran. From our perspective, anything the court can do to properly give the veteran the benefit, we are certainly supportive of. That does not mean we were wrong with the information we had. Very often we did precisely the right thing. If the court sees something that they have, since our decision, ruled in a way that would change the law, then certainly they ought to give the benefit of the doubt to the veteran.

One of the things that is interesting, the court oftentimes is taking a case that we have decided, and it is 2 years down the road that they are getting to it, or 2½ years down the road. And, consequently, if there are changes, if there is a difference in the manner in which this type of disability is addressed, either through a change in regulation, certainly they want to give the veteran the benefit of that. We certainly do not object to that. We applaud it. I do not think that in any way denigrates from our use of the existing law at the time we are deciding the case.

So like I say, like the court, we are trying very hard to give the benefit of the doubt to the veteran. It is a nonadversarial process at our level. We consider it to be a very, very important aspect of their work if they have changed the way they are looking at any specific disability, to give that benefit to the veteran.

Chairman AKAKA. Thank you, Mr. Terry.

Admiral Cooper, in the President's Fiscal Year 2008 budget request, $31.6 million is specifically for VETSNET improvements. What improvements do you think will be made with this funding?

Mr. COOPER. Let me explain, Mr. Chairman. VETSNET is something that will get us into at least the 20th-plus century. VETSNET is a program that was seen as unsuccessful 5 or 6 years ago, and we have put a lot of effort into making it a success because VETSNET will give us records that we can then keep electronically. We have five elements of VETSNET. Three of those five elements are in full effect, 100 percent, and the two others, which have to do with actual processing of payment to the veteran, we

are doing very, very carefully because, of course, we do not want a mistake in the veteran's pay.

We have a specific person that is in charge of this who answers directly to me. We are also working very closely, and have for the last 2½ years, with the CIO. Two years ago we had a group of contractors come in from Carnegie Mellon, SAI from Carnegie Mellon, and I asked them to analyze what we were doing, what we needed to do, and whether we should continue this program. Their reply was, "Yes, you should. There are some things you should do that you have not been doing."

And we took those steps. I then said, "Could you help us in managing this?" They said, "No, we do not do that." So then I went back to the CIO, and we brought on board Mitre, and Mitre has now been onboard for a year.

I think we have made tremendous progress, and, in fact, my impression is that VA will use the model we have used, the model for organizing and running this program, in other programs that they are going to be running centrally. So VETSNET is very important. This money is to continue us on the track to be completely using VETSNET at the end of 2008 or early in 2009. To show you the progress that we have made, as of the end of February, for all initial claims that came in this fiscal year, 38 percent of those claims were done completely in VETSNET. So we are making great strides, and I think strides that many people thought we would never make. But, quite frankly, I am quite proud of what we are doing so far in VETSNET and, although it will not get us into the 21st century, it will make a major step getting us into a position to jump into the 21st century.

Chairman AKAKA. Well, thank you for that. We will certainly follow up on that.

Senator Tester?

Senator TESTER. Thank you, Mr. Chairman.

Admiral Cooper, if I heard you right to Senator Obama's questions, you said that you are projecting about 27 percent will request benefits?

Mr. COOPER. That is approximately right. I just took the figures that we have right now from the GWOT report where we can identify those who have come in with claims. OSD identifies all veterans who participated in the Global War on Terror, and then we determine how many have filed claims for benefits. Right now it is about 27 percent.

Senator TESTER. OK, because my information shows that in 2006, 69,000 out of 198,000 that went out of the military requested benefits. That is about 35 percent.

Mr. COOPER. Yes, and I am giving you a figure of all those who were in GWOT and all those who have left military service. I am basing it on what DOD told me, and the number I have are the number of people who actually filed claims.

Senator TESTER. All right. Well——

Mr. COOPER. I would be glad to get together with your staff and make sure we know what——

Senator TESTER. That would be good, but the bottom line is that if you underestimate the projections—and I am not saying you did, but if they are underestimated, for whatever reasons, you are never

going to be able to be successful, at least unless you have some abilities that I am not—well, I do not know about that. OK.

I think, Mr. Terry, you talked about 2,000 folks are in the queue, and that has been some time ago. That was in the first round of questions. If a person applies for a benefit and gets rejected because of some reason—they did not put the right address down, or I do not know why you reject them, but there is a rejection because the form is not filled out right. Are those classified as being in the queue?

Mr. TERRY. You are talking about an appeal to our Board?

Senator TESTER. I am not actually talking about an appeal. I am just talking about getting through the door. I am just saying they have got a problem. They fill out the necessary paperwork, and for some reason that paperwork is rejected. Is that classified as being in the queue?

Mr. COOPER. Could I answer the question?

Senator TESTER. You sure may.

Mr. COOPER. Because it comes in to me.

Senator TESTER. Sure. No problem.

Mr. COOPER. Claims always come in through my outfit.

Senator TESTER. Yes.

Mr. COOPER. Eventually, they may get to him.

Senator TESTER. OK.

Mr. COOPER. The major change in incoming claims—you saw up there the numbers that Senator Craig had on the chart.

Senator TESTER. Yes.

Mr. COOPER. The major reason for a large increase 5 years ago in the number of people that we needed, and mostly got, is something called VCAA. It is the Act which determined exactly how we should treat claims. Prior to that time, I was not around, but it appears to me that we were not doing well by veterans.

Senator TESTER. Yes.

Mr. COOPER. So as a result, this Act was passed. It is a very good Act. It says very specifically that when a veteran comes in and wants to file a claim, VBA must send a letter to the veteran that is very specific, detailing all the things that VBA is going to do and all the things that the veterans must do. Also, due to a recent court ruling VBA must state the elements that we will use to decide the claim and how we will determine the date of claim.

So the law itself is quite specific on what we should do.

Senator TESTER. OK, and I understand that. Are those folks part of the 2,000 then, or are they not? I assume that 2,000 in the queue means 2,000 that still need additional paperwork to be accepted into the program to get the necessary treatment they need.

Mr. COOPER. The number in the queue right now is 400,000. That is the number in the queue.

Senator TESTER. OK.

Mr. COOPER. And they are in various stages of the process.

Senator TESTER. So we have got 400,000 folks out there that are requesting benefits. We do not know for sure if they are bogus or not, to be honest. But there are 400,000 folks out there that think they deserve benefits that are not being dealt with.

Mr. COOPER. That is correct. And last year, we received 805,000.

Senator TESTER. So about half of them are being accepted and half of them are being——

Mr. COOPER. No, not necessarily. No. As a matter of fact, it really depends on what the veteran is claiming because there are various rates. If a veteran requests a hearing, you may get one rate——

Senator TESTER. I hear you. I guess the real question is: Is 400,000 a figure you are comfortable with?

Mr. COOPER. No, sir, not at all.

Senator TESTER. What figure would you be comfortable with?

Mr. COOPER. If I want to get to 125 processing days, I think I would be comfortable with a working level of about 280,000 to 285,000. I think that is about the number that would give me a working level for processing claims in about 125 to 130 days.

Senator TESTER. Do you have recommendations on how to get to that point?

Mr. COOPER. We are doing many things that hopefully will get us to that point.

Senator TESTER. One last question—if I might, Mr. Chairman—because my red light just came on. But the question I had deals with the stressor event that you were talking about with an earlier question, and I think you talked about Agent Orange in regards to Vietnam. The veteran has to go back—and the files are kept in St. Louis, or are they kept here in D.C.?

Mr. COOPER. Most of them will be kept in St. Louis.

Senator TESTER. They have to go back and find out what event that was where they were exposed to Agent Orange that may have caused the PTSD?

Mr. COOPER. I was answering a couple of different questions. In the case of Agent Orange, if you served during a specific time period in Vietnam, there are several presumptive conditions that can be considered to have resulted from exposure—diabetes being the primary one.

Senator TESTER. Yes.

Mr. COOPER. If you have diabetes today and you were in Vietnam during that period——

Senator TESTER. Right.

Mr. COOPER.—it is presumed you were exposed to Agent Orange and, therefore, presumed that you have diabetes as a result of it.

Senator TESTER. If you have PTSD, though, you have to make a proof that you were exposed?

Mr. COOPER. In the case of PTSD, we must be able to find in your record something that was a stressor, something that would cause you to have flashbacks or something that today would manifest itself as PTSD.

Senator TESTER. Is Agent Orange one of those?

Mr. COOPER. I do not think so.

Senator TESTER. The real question here is: Vietnam ended in 1973, as I recall. We are dealing with something that happened to a lot of these folks 40 years ago.

Mr. COOPER. Yes, sir.

Senator TESTER. How can they be expected to know when that happened in order to get that? Do you understand what I am saying? I mean, if they were, for instance, in a battle at some point in time, my guess is that most of these folks have been trying to

erase this from their memory for 40 years. How can they be expected to know? And do they have any help in accessing those records?

Mr. COOPER. Yes. We try to find out what it was. Besides going to St. Louis for the records, we also go to an organization at Fort Belvoir that has unit records. So if we have the DD214, which says they are now honorably discharged, we can find out various places where they were or units to which they were attached.

Senator TESTER. Is there—and excuse me, Mr. Chairman. I guess I could go on all day, so I will just cut this off at this point. But do you feel you have adequate resources to be able to help these folks determine when that stressor event happened?

Mr. COOPER. I feel that, with the resources that we have requested in 2008, I will be well on the way to having adequate resources. But it is a long, lengthy process. It is a very involved process. And that is what——

Senator TESTER. I could not agree more. I agree. And that is why it is important that we not only get the most bang for the buck but are responsive to the needs. Thank you.

Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Tester.

I want to thank this panel for your responses. As you know, all of us are working diligently to do the best we can to help the veterans of our country, and these hearings are conducted in an effort to do that. Your responses will certainly help us in doing this, and I hope we can find answers, whether it is more funds, personnel, or restructuring, to deliver the kinds of services that our veterans deserve.

So thank you so much for what you are doing, and we wish you well.

Mr. TERRY. Thank you, Mr. Chairman.

Mr. COOPER. Thank you, Mr. Chairman.

Chairman AKAKA. I would like to call up the next panel, and as you approach the desk, I would like to mention your names and your positions: Daniel Bertoni, Acting Director of Education, Workforce, and Income Security issues, Government Accountability Office (GAO); John Rowan, National President, Vietnam Veterans of America; and Rick Surratt, Deputy National Legislative Director, Disabled American Veterans.

We welcome all of you to the Committee. Before the start of this panel, I would like to remind the Vietnam Veterans of America that although I will allow you to testify before the Committee today, all testimony must be received by the testimony deadline. I know from my experience with your organization that there must be some extenuating circumstances as to why your testimony was not received by the Committee by the deadline, but let me just say please make every effort in the future to get it here on time.

And with that, I would like to ask you make your statements, and I will call you in the order that I introduced you. Daniel Bertoni will be first.

STATEMENT OF DANIEL BERTONI, ACTING DIRECTOR, EDUCATION, WORKFORCE, AND INCOME SECURITY ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. BERTONI. Good morning, Mr. Chairman and Members of the Committee. I am pleased to be here to discuss the Department of Veterans Affairs' disability program challenges and opportunities.

Last year, VA provided nearly $35 billion in disability benefits to 3.5 million veterans and survivors, and for years the disability claims process has been the subject of attention by VA, the Congress, and others due to untimely decisions, large backlogs, and other weaknesses.

In 2003, we designated VA and other Federal disability programs high risk because these programs were based on outmoded concepts and continued to experience management and operational problems. Since that time, we have issued numerous reports with recommendations for change.

My testimony today is based on our prior work and focuses on three areas: service delivery challenges facing VA; actions taken to improve claims processing; and going forward, areas where fundamental reform may be needed to significantly improve performance.

In summary, VA continues to experience service delivery challenges. While VA has made progress in the past reducing its claims inventory, it is now losing ground. Since 2003, pending claims have increased almost 50 percent to nearly 400,000. Those pending longer than 6 months have also increased more than 75 percent to about 83,000. The time required to resolve appeals has also been problematic. The current average processing time of 657 days is still far from VA's stated goal of 1 year.

VA also faces challenges ensuring that its decisions are accurate and consistent. Although the accuracy of decisions is currently 88 percent, this figure is well short of VA's goal of 98 percent. Ensuring that all veterans receive comparable entitlement decisions and disability ratings regardless of location has also been problematic. We have recommended that VA evaluate all levels of its decision-making process to provide a foundation for addressing decisional inconsistencies.

VA has taken several steps to improve claims processing. The 2008 budget requests over 450 additional claims processing staff, a 6 percent increase over last year. Other key initiatives include increasing overtime, using retired staff as trainers, and piloting a paperless Benefits Delivery at Discharge process where servicemember records and other evidence are captured electronically prior to separation. VA has also enhanced internal training and information sharing to reduce the number of cases sent back by the Board of Veterans' Appeals due to errors or incomplete evidence. And to improve decisional inconsistency, VA has taken action to develop baseline data to better monitor and assess decisional variances.

Despite these efforts, several factors may impede their efforts. Since Fiscal Year 2000 claims have increased steadily from 579,000 to over 800,000 last year, placing a substantial strain on operations. Recent court decisions requiring VA to assist veterans in developing claims have expanded workloads. Additional laws and regulations, such as those creating new presumptions of service-con-

nected disabilities, have added to the volume of claims. And caseload complexity has also increased as more veterans claim multiple disabilities, and VA has had difficulty obtaining all relevant documents. Thus, continuing to explore new ways to work smarter and more efficiently, will be essential to VA's productivity.

In going forward, there also may be opportunities for fundamental reform that could dramatically improve performance. In designating VA's disability program high risk, we noted that VA's processes do not reflect the current state of science, medicine, technology, and the national economy, which has moved away from manual labor to more service- and knowledge-based employment.

We also recommended that VA developed a strategy for periodically updating its disability ratings criteria to better reflect changes in the economy and job market. We have also reported that VA's field structure may impede efficient operations. Despite limited efforts to consolidate some processes and workloads, VA has not changed its basic structure for processing claims at its 57 regional offices, which have experienced large variations in performance and productivity.

While re-examining claims processing challenges can be daunting, key efforts are underway. In 2003, the Congress established the Veterans' Disability Benefits Commission to study many of the issues discussed today, including underlying program principles, standards for determining disability compensation, and issues related to how and where cases are processed. The Commission is scheduled to report to the Congress by October 2007, and like you, we also look forward to the report findings.

Mr. Chairman, this concludes my statement. I am happy to answer any questions that you or other Members of the Committee may have. Thank you.

[The prepared statement of Mr. Bertoni follows:]

United States Government Accountability Office

GAO

Testimony
Before the Committee on Veterans' Affairs, United States Senate

For Release on Delivery
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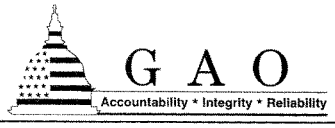
VETERANS' DISABILITY BENEFITS

Long-Standing Claims Processing Challenges Persist

Statement of Daniel Bertoni, Acting Director
Education, Workforce and Income Security



GAO-07-512T

GAO
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Highlights

Highlights of GAO-07-512T, a testimony before the Committee on Veterans' Affairs, United States Senate

Why GAO Did This Study

The Senate Veterans' Affairs Committee asked GAO to discuss its recent work related to the Department of Veterans Affairs' (VA) disability claims and appeals processing.

GAO has reported and testified on this subject on numerous occasions. GAO's work has addressed VA's efforts to improve the timeliness and accuracy of decisions on claims and appeals, VA's efforts to reduce backlogs, and concerns about decisional consistency.

www.gao.gov/cgi-bin/getrpt?GAO-07-512T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Daniel Bertoni at (202) 512-7215 or bertonid@gao.gov.

March 7, 2007

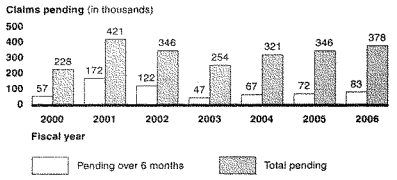
VETERANS' DISABILITY BENEFITS

Long-Standing Claims Processing Challenges Persist

What GAO Found

VA continues to face challenges in improving service delivery to veterans, specifically in speeding up the process of adjudication and appeal, reducing the existing backlog of claims, and improving the accuracy and consistency of decisions. For example, as of the end of fiscal year 2006, rating-related compensation claims were pending an average of 127 days, 16 days more than at the end of fiscal year 2003. During the same period, the inventory of rating-related claims grew by almost half, due in part to increased filing of claims, including those filed by veterans of the Iraq and Afghanistan conflicts. Meanwhile, appeals resolution remains a lengthy process, taking an average of 657 days in fiscal year 2006. Further, we and VA's Inspector General have identified concerns about the consistency of decisions by VA's regional offices and the Board of Veterans' Appeals (BVA).

Rating-Related Claims Pending at End of Period, Fiscal Years 2000-2006



Source: VA data.

VA is taking steps to address these problems. For example, the President's fiscal year 2008 budget requests an increase of over 450 full-time equivalent employees to process compensation claims. VA is working to improve appeals timeliness by reducing appeals remanded for further work. VA is also developing a plan to monitor consistency across regional offices. However, several factors may limit VA's ability to make and sustain significant improvements in its claims processing performance, including the potential impacts of laws and court decisions, continued increases in the number and complexity of claims being filed, and difficulties in obtaining the evidence needed to decide claims in a timely and accurate manner, such as military service records.

Opportunities for significant performance improvement may lie in more fundamental reform of VA's disability compensation program. This could include reexamining program design such as updating the disability criteria to reflect the current state of science, medicine, technology, and labor market conditions. It could also include examining the structure and division of labor among field offices.

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to comment on the claims processing challenges and opportunities facing the Department of Veterans Affairs' (VA) disability compensation and pension programs. Through these programs, VA provided about $34.5 billion in cash disability benefits to more than 3.5 million veterans and their survivors in fiscal year 2006. For years, the claims process has been the subject of concern and attention by VA, the Congress, and veterans service organizations. Many of their concerns have focused on long waits for decisions, large claims backlogs, and inaccurate decisions. Our work, and media reports of significant discrepancies in average disability payments from state to state have also highlighted concerns about the consistency of decision-making within VA. In January 2003, we designated modernizing VA and other federal disability programs as a high-risk area, because of these service delivery challenges and because our work over the past decade found that these programs are based on outmoded concepts from the past.

You asked us to discuss our recent work on VA's disability claims process. My statement draws on a number of prior GAO reports and testimonies. (See related GAO products.) We updated information as appropriate to reflect the current status of VA claims processing and initiatives.

In summary, VA continues to face challenges in improving service delivery to veterans, specifically in speeding up the process of adjudication and appeal, reducing the existing backlog of claims, and improving the accuracy and consistency of decisions. For example, between fiscal years 2003 and 2006, the inventory of rating-related claims grew by almost half to a total of about 378,000, due in part to increased filing of claims, including those filed by veterans of the Iraq and Afghanistan conflicts.[1] During the same period, the average number of days these claims were pending increased by 16 days, to an average of 127 days. While VA has improved the accuracy of its compensation decisions to 88 percent in fiscal year 2006, it is still well short of its established goal of 98 percent. Meanwhile, appeals resolution remains a lengthy process. In fiscal year 2006, it took an average of 657 days to resolve appeals. Further, we and

[1] Rating-related claims are primarily original claims for disability compensation and pension benefits, and reopened claims. For example, veterans may file reopened claims if they believe their service-connected conditions have worsened.

VA's Inspector General have identified concerns about the consistency of decisions across regional offices and at the Board of Veterans' Appeals.

VA is taking steps to address service delivery problems, but improvements may be limited by several factors. The President's fiscal year 2008 budget requests an increase of over 450 full-time equivalent employees to process compensation claims. Through training and information sharing, VA is also working to reduce appeals processing times by decreasing the number of cases sent back from the appeals level for further development. Further, VA has taken actions to improve consistency, including developing a plan to monitor decisions and identify unacceptable variations, and commissioning a study of the major influences on compensation decisions. However, several factors may limit VA's ability to make and sustain significant improvements in its claims processing performance. These include the potential impacts of laws and court decisions, continued increases in the number and complexity of claims being filed, and difficulties in obtaining the evidence needed to adjudicate claims in a timely and accurate manner, such as military service records.

Opportunities for significant performance improvement may lie in more fundamental reform of VA's disability compensation program. This would include reexamining program design as well as the structure and division of labor among field offices. For example, we found that VA and other federal disability programs have not been updated to reflect the current state of science, medicine, technology, and labor market conditions. Specifically, the criteria for disability decisions are based primarily on estimates made in 1945 about the effect of service-connected impairments on the average individual's ability to perform jobs requiring manual labor. In addition, our work has shown that about one-third of newly compensated veterans could be interested in receiving lump sum payments, which could potentially save VA time and money associated with reopening cases over time and could be beneficial to veterans. In addition, VA and other organizations have identified potential changes to field operations that could enhance productivity and accuracy in processing disability claims. While major reexamination may be daunting, there are mechanisms for undertaking such an effort. For example, the congressionally chartered commission on veterans' disability benefits has been studying a number of program design issues, and will report to the Congress later this year.

Background

VA pays monthly disability compensation benefits to veterans with service-connected disabilities (injuries or diseases incurred or aggravated while on active military duty) according to the severity of the disability. VA also pays compensation to some spouses, children, and parents of deceased veterans and service members. VA's pension program pays monthly benefits based on financial need to certain wartime veterans or their survivors.[2]

When a veteran submits a claim to any of the Veterans Benefits Administration's 57 regional offices, a veterans service representative is responsible for obtaining the relevant evidence to evaluate the claim. Such evidence includes veterans' military service records, medical examinations, and treatment records from VA medical facilities and private medical service providers. Once a claim has all the necessary evidence, a rating specialist evaluates the claim and determines whether the claimant is eligible for benefits. If the veteran is eligible for disability compensation, the rating specialist assigns a percentage rating based on degree of disability. A veteran who disagrees with the regional office's decision can appeal to VA's Board of Veterans' Appeals and then to U.S. federal courts. If the Board finds that a case needs additional work such as obtaining additional evidence or contains procedural errors, it is sent back to the Veterans Benefits Administration, which is responsible for initial decisions on disability claims.

In November 2003, the Congress established the Veterans' Disability Benefits Commission to study the appropriateness of VA disability benefits, including disability criteria and benefit levels. The commission is scheduled to report to the Congress by October 1, 2007.

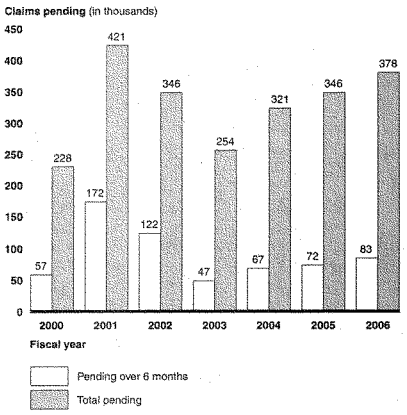
VA Continues to Face Service Delivery Challenges

VA continues to experience significant service delivery challenges including lengthy processing times and inaccurate and inconsistent decisions. While VA made progress in fiscal years 2002 and 2003 reducing the size and age of its pending claims inventory, it has lost ground since then. This is due in part to increased filing of claims, including those filed by veterans of the Iraq and Afghanistan conflicts. Moreover, questions remain about consistency of VA's decisions across regional offices and at the Board of Veterans' Appeals.

[2] Veterans qualify for pensions if they have low income, served in a period of war, and are permanently and totally disabled for reasons not service-connected (or are age 65 or older).

VA's inventory of pending claims and their average time pending have increased significantly in the last 3 years. The number of pending claims increased by almost one-half from the end of fiscal year 2003 to the end of fiscal year 2006, from about 254,000 to about 378,000. During the same period, the number of claims pending longer than 6 months increased by more than three-fourths, from about 47,000 to about 83,000 (see fig.1).

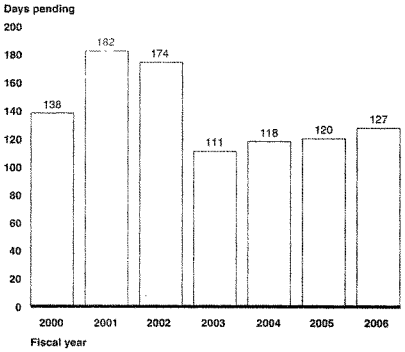
Figure 1: Rating-Related Claims Pending at End of Period, Fiscal Years 2000-2006



Source: VA data

Similarly, as shown in figure 2, VA reduced the average age of its pending claims from 182 days at the end of fiscal year 2001 to 111 days at the end of fiscal year 2003. However, by the end of fiscal year 2006 average days pending had increased to 127 days. Meanwhile, the time required to resolve appeals remains too long. The average time to resolve an appeal rose from 529 days in fiscal year 2004 to 657 days in fiscal year 2006.

Figure 2: Average Days Pending for VA Compensation and Pension Rating-Related Claims, Fiscal Years 2000-2006



Source: VA data.

The increase in VA's inventory of pending claims, and their average time pending is due in part to an increase in claims receipts. Rating-related claims, including those filed by veterans of the Iraq and Afghanistan conflicts, increased steadily from about 579,000 in fiscal year 2000 to about 806,000 in fiscal year 2006, an increase of about 39 percent.

In addition to problems with deciding claims in a timely manner, VA acknowledges that regional office decision accuracy needs further improvement. VA reports that it has improved the accuracy of decisions on rating related compensation claims from 80 percent in fiscal year 2002 to 88 percent in fiscal year 2006.[3] However, this figure remains well short of its strategic goal of 98 percent.

VA also continues to face questions about its ability to ensure that veterans receive consistent decisions across regional offices. We have identified the need for VA to systematically address this issue to achieve

[3] Actual data through July 2006.

acceptable levels of variation.[4] VA's Inspector General has studied one indicator of possible inconsistency, the wide variations in average payments per veteran from state to state. In May 2005, the Inspector General[5] reported that compensation payments are affected by many factors and that some disabilities are inherently more susceptible to variations in rating determinations. Further, we reported in May 2005 that the Board of Veterans' Appeals had taken actions to strengthen its system for reviewing the quality of its decisions, but VA still lacked a systematic method for ensuring the consistency of decision making within VA as a whole.

Despite VA's Continuing Steps, a Number of Factors May Limit Its Ability to Improve Claims Processing

VA has recently taken several steps to improve service delivery, but their potential to lead to significant improvements may be limited by several factors. These steps include requesting funding for additional staff, initiatives to reduce appeal remands, and initiatives to assess and monitor decision consistency. However, limitations on potential improvements include increases in claims volume and complexity, and challenges in acquiring needed evidence in a timely manner.

In its fiscal year 2008 budget justification, VA identified an increase in claims processing staff as essential to reducing the pending claims inventory and improving timeliness. According to VA, with a workforce that is sufficiently large and correctly balanced, it can successfully meet the veterans' needs while ensuring good stewardship of taxpayer funds. The fiscal year 2008 request would fund 8,320 full-time equivalent employees working on compensation and pension, which would represent an increase of about 6 percent over fiscal year 2006. In addition, the budget justification cites near-term initiatives to increase the number of claims completed, such as using retired VA employees to provide training, and the increased use of overtime.

[4] GAO, *Veterans' Benefits: Quality Assurance for Disability Claims and Appeals Processing Can Be Further Improved*, GAO-02-806 (Washington, D.C.: Aug. 16, 2002); and *Veterans Benefits: VA Needs Plan for Assessing Consistency of Decisions*, GAO-05-99 (Washington, D.C.: Nov. 19, 2004).

[5] Department of Veterans Affairs Office of Inspector General, *Review of State Variances in VA Disability Compensation Payments*, Report No. 05-00765-137 (Washington, D.C.: May 19, 2005).

Even as staffing levels increase, however, VA acknowledges that it still must take other actions to improve productivity.[6] VA's budget justification provides information on actual and planned productivity, in terms of claims decided per full-time equivalent employee. While VA expects a temporary decline in productivity as new staff are trained and become more experienced, it expects productivity to increase in the longer term. Also, VA has identified additional initiatives to help improve productivity. For example, VA plans to pilot paperless Benefits Delivery at Discharge, where service members' disability claim applications, service medical records, and other evidence would be captured electronically prior to discharge. VA expects that this new process will reduce the time needed to obtain the evidence needed to decide claims.

To resolve appeals faster, VA has been working to reduce the number of appeals sent back by the Board of Veterans' Appeals for further work such as obtaining additional evidence and correcting procedural errors. To do so, VA has established joint training and information sharing between field staff and the Board. VA reports that it has reduced the percentage of decisions remanded from about 57 percent in fiscal year 2004 to about 32 percent in fiscal year 2006, and expects its efforts to lead to further reductions. Also, VA reports that it has improved the productivity of the Board's judges from an average of 604 appeals decided in fiscal year 2003 to 698 in fiscal year 2006. The Board attributes this improvement to training and mentoring programs and expects productivity to improve to 752 decisions in fiscal year 2008.

To improve decision consistency, VA has contracted for a study of the major influences on compensation payments, to develop baseline data for monitoring and managing decision variances. Also, VA is in the process of testing templates for compensation and pension medical examinations for specific types of disabilities to ensure that medical evidence from these examinations will enable consistent evaluations of disabilities. Further, VA formed a workgroup to study variances in the rates of benefit grants and denials, and in assigned disability evaluations, leading to development of plans to monitor consistency on an ongoing basis.

Despite these efforts, VA may be limited in its ability to make and sustain significant claims processing performance improvements. Recent history

[6]See GAO, *Veterans' Benefits: More Transparency Needed to Improve Oversight of VBA's Compensation and Pension Staffing Levels*, GAO-05-47 (Washington, D.C.: Nov. 15, 2004).

has shown that VA's claims processing workload and performance are affected by several factors, including the impacts of laws and court decisions, increasing numbers and complexity of claims, and difficulties in obtaining accurate and timely information to adjudicate claims. Since 1999, several court decisions and laws related to VA's responsibilities to assist veterans in developing their benefit claims have significantly affected VA's ability to process claims in a timely manner. VA attributes some of the increase in the number of claims pending and the average days pending to a September 2003 court decision that required over 62,000 claims to be deferred, many for 90 days or longer. Also, VA notes that legislation and VA regulations have expanded benefit entitlement and added to the volume of claims. For example, in recent years, laws and regulations have created new presumptions of service-connected disabilities for many Vietnam veterans and former prisoners of war. Also, VA expects additional claims receipts based on the enactment of legislation allowing certain military retirees to receive both military retirement pay and VA disability compensation.

In addition, rating-related claims continue to increase, from about 579,000 in fiscal year 2000 to about 806,000 in fiscal year 2006, an increase of about 39 percent. While VA projects relatively flat claim receipts in fiscal years 2007 and 2008, it cautions that ongoing hostilities in Iraq and Afghanistan, and the Global War on Terrorism in general, may increase the workload beyond current levels. VA has also noted that claims have increased in part because older veterans are filing disability claims for the first time. Moreover, according to VA, the complexity of claims is also increasing. For example, some veterans are citing more disabilities in their claims than in the past. Because each disability needs to be evaluated separately, these claims can take longer to complete. Additionally, VA notes that they are receiving more disability claims, such as those related to mental health issues including post-traumatic stress disorder, which are generally harder to evaluate.

Additionally, claims processing timeliness and decisional accuracy can be hampered if VA cannot obtain the evidence it needs in a timely manner. For example, to obtain information needed to fully develop some post-traumatic stress disorder claims, VBA must obtain records from the U.S. Army and Joint Services Records Research Center (JSRRC), whose average response time to VBA regional office requests is about 1 year. This can significantly increase the time it takes to decide a claim. In December 2006, we recommended that VBA assess whether it could systematically utilize an electronic library of historical military records rather than submitting all research requests to the JSRRC. VBA agreed to determine

the feasibility of regional offices using an alternative resource prior to sending some requests to the JSRRC. We also reported that while VBA quality reviewers found few decision errors due to failure to obtain military service records, VBA does not know the extent to which the information that is provided to regional offices is reliable and accurate. Regional offices rely on a VBA unit at the National Personnel Records Center, where service records of many veterans are stored, to do thorough and reliable searches and analyses of records and provide accurate reports on the results. However, we noted that VBA does not systematically evaluate the quality of these searches and analyses. Incomplete and inaccurate reports could affect decisional accuracy.

Opportunities for Improvement May Lie in More Fundamental Reform

While VA is taking actions to address its claims processing challenges, there are opportunities for more fundamental reform that could dramatically improve decision making and processing. These include reexamining program design, as well as the structure and division of labor among field offices.

After more than a decade of research, we have determined that federal disability programs are in urgent need of attention and transformation and placed modernizing federal disability programs on our high-risk list in January 2003. Specifically, our research showed that the disability programs administered by VA and the Social Security Administration lagged behind the scientific advances and economic and social changes that have redefined the relationship between impairments and work. For example, advances in medicine and technology have reduced the severity of some medical conditions and have allowed individuals to live with greater independence and function in work settings. Moreover, the nature of work has changed in recent decades as the national economy has moved away from manufacturing-based jobs to service- and knowledge-based employment. Yet VA's and SSA's disability programs remain mired in concepts from the past—particularly the concept that impairment equates to an inability to work—and as such, we found that these programs are poorly positioned to provide meaningful and timely support for Americans with disabilities.

In August 2002, we recommended that VA use its annual performance plan to delineate strategies for and progress in periodically updating labor market data used in its disability determination process. We also recommended that VA study and report to the Congress on the effects that a comprehensive consideration of medical treatment and assistive technologies would have on its disability programs' eligibility criteria and benefits package. This study would include estimates of the effects on the

size, cost, and management of VA's disability programs and other relevant VA programs and would identify any legislative actions needed to initiate and fund such changes.

Another area of program design that could be examined is the option of providing a lump sum payment in lieu of monthly disability compensation. In 1996, the Veterans' Claims Adjudication Commission noted that most disability compensation claims are repeat claims—such as claims for increased disability percentage—and most repeat claims were from veterans with less severe disabilities.[7] According to VA, about 65 percent of veterans who began receiving disability compensation in fiscal year 2003 had disabilities rated 30 percent or less. The commission questioned whether concentrating claims processing resources on these claims, rather than on claims by more severely disabled veterans, was consistent with program intent. The commission asked Congress to consider paying less severely disabled veterans compensation in a lump sum. According to the commission, the lump sum option could have a number of benefits for VA as well as veterans. Specifically, the lump sum option could reduce the number of claims submitted and allow VA to process claims more quickly—especially those of more seriously disabled veterans. Moreover, a lump sum option could be more useful to some veterans as they make the transition from military to civilian life. In December 2000, we reported that about one-third of newly compensated veterans could be interested in a lump sum option.

In addition to program design, VA's regional office claims processing structure may be disadvantageous to efficient operations. VBA and others who have studied claims processing have suggested that consolidating claims processing into fewer regional offices could help improve claims processing efficiency, save overhead costs, and improve decisional accuracy and consistency. We noted in December 2005 that VA had made piecemeal changes to its claims processing field structure. VA consolidated some of its pension income and eligibility verifications at three regional offices. Further, VA consolidated decision making on Benefits Delivery at Discharge claims, which are generally original claims for disability compensation, at the Salt Lake City and Winston-Salem regional offices. However, VA has not changed its basic field structure for processing compensation and pension claims at 57 regional offices, which

[7] Veterans' Claims Adjudication Commission, *Report to Congress* (Washington D.C.: December 1996).

experience large performance variations and questions about decision consistency. Unless more comprehensive and strategic changes are made to its field structure, VBA is likely to miss opportunities to substantially improve productivity, accuracy, and consistency, especially in the face of future workload increases. We have recommended that the VA undertake a comprehensive review of its field structure for processing disability compensation and pension claims.

While reexamining claims processing challenges may be daunting, there are mechanisms for undertaking such an effort, including the congressionally chartered commission currently studying veterans' disability benefits. In November 2003, the Congress established the Veterans' Disability Benefits Commission to study the appropriateness of VA disability benefits, including disability criteria and benefit levels. The commission is to examine and provide recommendations on (1) the appropriateness of the benefits, (2) the appropriateness of the benefit amounts, and (3) the appropriate standard or standards for determining whether a disability or death of a veteran should be compensated. The commission held its first public hearing in May 2005 and in October 2005, established 31 research questions for study. These questions address such issues as how well disability benefits meet the congressional intent of replacing average impairment in earnings capacity, whether lump sum payments should be made for certain disabilities or level of severity of disability, and how VA's claims processing operation compares to other disability programs, including the location and number of processing centers. These issues and others have been raised by previous studies of VBA's disability claims process. The commission is scheduled to report to the Congress by October 1, 2007.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions that you or other members of the committee may have.

GAO Contact and Acknowledgments

For further information, please contact Daniel Bertoni at (202) 512-7215 or Bertonid@gao.gov. Also contributing to this statement were Shelia Drake, Martin Scire, Greg Whitney, and Charles Willson.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARACK OBAMA TO DANIEL BERTONI, ACTING DIRECTOR, EDUCATION, WORKFORCE AND INCOME SECURITY, GOVERNMENT ACCOUNTABILITY OFFICE

Question 1. You outlined a number of ongoing challenges that might confound current VA plans to reduce its backlog and to shorten the turnaround on the adjudication process.

Beyond staffing and funding levels, what in your view is the most significant of the challenges you outlined and why?

Response. The most significant of the challenges we outlined is for VA to keep up with a workload that is growing in volume and complexity. As we noted in our testimony, the number of rating-related claims VA received increased by about 39 percent from about 579,000 in Fiscal Year 2000 to 806,000 in Fiscal Year 2006. While VA expects the volume of claims to remain at around 800,000 a year in the short term, further increases in claims filing are possible. This could be the result of more veterans of the conflicts in Iraq and Afghanistan seeking benefits, and older veterans filing new and reopened claims. Further, as recent history has shown, the expansion of benefit entitlements, such as the addition of new presumptive service connected disabilities, can significantly increase the number of claims VA receives.

Meanwhile, according to VA, the complexity of claims is increasing. For example, the number of original disability compensation claims containing eight or more disabilities increased from about 22,000 in Fiscal Year 2000 to over 51,000 in Fiscal Year 2006. Because each disability needs to be evaluated separately, these claims can take longer to complete.

Question 2. In your testimony, you alluded to more fundamental reform possibilities within the VA, including a reexamination of its current regional office claims processing structure.

Could you provide further insight or comment into this idea and associated tradeoffs, especially from the perspective of a Veteran who is trying to navigate the claims system?

Response. VBA currently processes claims at 57 regional offices, which experience large performance variances and questions about decision consistency. This means that some veterans receive better service than others based on where they live. Advantages of processing claims at fewer offices could be faster and more consistent decisions.

VA has already done some consolidations and changes in regional office jurisdictions to give veterans faster decisions on their claims. For example:

- Processing claims by survivors of servicemembers who died on active duty at its Philadelphia regional office.
- Processing claims from veterans in southern New Jersey at the Philadelphia regional office instead of the Newark regional office.
- Making decisions on Benefits Delivery at Discharge claims at the Salt Lake City, Utah, and Winston-Salem, North Carolina regional offices.

In our opinion, to better serve veterans throughout the country VA needs to undertake a comprehensive review of its field structure for processing disability compensation and pension claims. Even if VA consolidated compensation and pension claims processing into fewer offices veterans could still take advantage of public contact and outreach services, which would include accepting claims, at offices not processing claims. Veterans could also file claims by mail and online.

Chairman AKAKA. Thank you very much for your statement, Mr. Bertoni.

Now we will hear from Mr. John Rowan.

STATEMENT OF JOHN ROWAN, NATIONAL PRESIDENT, VIETNAM VETERANS OF AMERICA

Mr. ROWAN. Good morning, Mr. Chairman, and, again, I apologize that our testimony did not get to the Committee. Unfortunately, one of our computers decided to blow up.

Chairman AKAKA. Well, we are glad to have you here.

Mr. ROWAN. Thank you. I am glad to be here.

As one of the people that, unfortunately, started to bump up the VA's claims processes in the recent years as a service-connected disabled veteran who originally applied for disability for diabetes

that significantly increased with various secondary conditions, and have gone through that process, I understand the process both as a person who has gone through it as a veteran, and also as a service rep who actually filed claims on behalf of individuals in the system from 2002 to 2006. After I had retired from my employment for many years, I took on that as a task.

It was very clear to me, coming out of another Government sector, that the biggest problem they had, quite honestly, was this whole paper problem. Listening to the questions and discussions that have gone on this morning, we can sit here and talk about the interface between the DOD and the VA, and it really does not matter. DOD can get as electronic as it can be. It still ends up in the VA, which creates paper. When the VA hospital system, which is very good, creates wonderful systems on the patient they are dealing with and gives a wonderful trail of the individual's history, they have to print it out and put it in the paper file. They do not look at it electronically and then deal with it electronically.

I came out of a public sector company, the Comptroller of the City of New York, where I reviewed 15,000-page contracts electronically through my computer system we had, and not only could I review it, but ten other people could review the same contract at the same time.

When I went through my training with the VA as a service rep, I remember going to a wonderful training on something called the "Virtual VA" and how this was all going to work. And that was a wonderful idea, because, gee, it reminded me of the program that I had left in 2002 when I retired. Unfortunately, they were nowhere near doing that.

When I got a new computer for one of my other service reps, they told us—by the way, I asked them what kind of system do they need—"we are working on Windows 98." And this was in 2004. Something was radically wrong there.

So it is very clear that is the big issue. We have got to get past that electronic hurdle somehow to deal with all of these problems that we are talking about. Then you can talk about interfacing between the VHA, VBA, DOD, and BVA, and all the rest of it. And that is the real problem.

There are other issues, however, that we can deal with. One of which is from the VSOs' point of view, as, again, somebody who handled claims. When we have those claims that are presumptive disabilities, like the Agent Orange issues, if I have a doctor certifying that I am a diabetic and I have a DD214 that shows very clearly I stepped foot in Vietnam, that case should take about 2 minutes to rate. The problem is it goes into the same system that everything else goes into and drags on forever. We need to be able to fast-track what we call "ready-to-rate claims" that everybody agrees everything is done and we are ready to go, and the VA rater should be able to pick it up, look at it, deal with it, and move it out. Unfortunately, again, we are talking about getting that piece of paper moved from one end of the office to the other.

One of the things they talked about taking part in is the idea of assisting the newer veterans and getting them on a fast track. We have a little bit of a concern with that. We wonder if there isn't going to be a little bit of a "robbing Peter to pay Paul" kind of deal

here. While the idea of helping the newer veterans and getting them speeded up is a good idea—and I really listened to the case that Senator Rockefeller, I think it was, or Senator Craig maybe—who talked about the veteran who was coming home and was worried about his claim not getting adjudicated in time to pay his rent. It is a real issue, and I take concern about that. But I want to know where they are going to get all these raters from to deal with these claims.

There is an issue about this idea of putting all the raters in one spot. One of the problems, at least, again, from my point of view, working in the regional office, we want to be able to interface with the people that we are dealing with so we can get rid of some of the problems that crop up from time to time on a face-to-face basis.

Anyway, we are here to assist you in the Senate and anybody else who would like to talk about that, and I am sure my other colleagues in the other organizations will say the same. And I appreciate this Senate Committee taking the time to look at this very serious issue.

Thank you.

Chairman AKAKA. Thank you very much, Mr. Rowan. I think you know that the two Committees on Veterans' Affairs, in the House and in the Senate, have come together and have reinstated their meetings with the VSOs. And we are glad to do that and to see the kinds of responses we are getting from the VSOs on that. But as you know, what is happening now on the question of veterans, whether it is benefits or health care, we have problems and we must get together to help resolve those problems.

Mr. Surratt?

STATEMENT OF RICK SURRATT, DEPUTY NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. SURRATT. Good morning, Mr. Chairman. Today's hearing addresses a major and longstanding challenge for VA: improving the timeliness and accuracy of the process for deciding disability benefits claims and appeals. The situation can be explained simply: The volume of work exceeds VA's output capacity, and that leads to backlogs. The input of new work exceeds the output, and the work backs up, with consequent delays. VA has reacted by pressing for increased production, compromising quality, and in turn that created more work at the regional office and appellate levels.

So, if the basic problem is an imbalance between workload and capacity, why has capacity not increased to match the workload? The DAV submits that in the politics of the budget process, VA is not permitted to request the level of resources it really needs and that Congress too readily accepts VA's projections that it will improve timeliness and quality with the resources it requests.

In its budget submission for Fiscal Year 2006, the VA projected that it could reduce its backlog of rating cases from 321,000 it had on hand in 2005 to 282,000 by the end of Fiscal Year 2006, with an average processing time of 145 days. However, the backlog of rating cases had grown to 378,000 by the end of 2006, and the average processing time was 177 days.

In its Fiscal Year 2008 budget submission, VA projects it will reduce the 378,000 rating cases in its 2006 year-end inventory to

369,000 cases in 2007 and 329,000 cases in 2008. Instead of going in the direction of reducing the backlog to 369,000 cases, the VA has again lost ground. Nearing the midpoint of the fiscal year, the backlog has grown to 401,000 cases. Yet the budget submission states, "The 2008 budget provides resources to timely and accurately process a claims workload that continues to increase in quantity and complexity." And at the same time the budget submission acknowledges that the workload continues to increase in quantity and complexity, it bases VA's resource needs and its projections for reducing the backlog in 2007 and 2008 on a decrease in claims receipts for those years.

While resources alone will not solve VA's problems, VA's problems cannot be solved without the necessary resources. VA's well-intentioned initiatives cannot succeed if they continue to be defeated by insufficient resources. Adequate resources are the essential foundation for rebuilding an effective claims processing system. We have to stop deceiving ourselves and admit that these problems are only going to continue and probably get worse if we do not remedy the root cause. As we in the DAV have consistently said, quality is the key to timeliness. Timeliness follows from quality because omissions in record development, failure to afford due process, and erroneous decisions require duplicative work, which adds to the load on an already overburdened system.

Quality is achieved with adequate resources to perform necessary comprehensive and ongoing training, to devote sufficient time to each case, and to impose and enforce quality standards through effective quality assurance methods and accountability mechanisms. VA has simply not had the resources necessary to achieve the level of quality required to avoid unacceptable error rates, increased numbers of appeals, and the consequent overload that causes backlogs and delays in claims dispositions.

To achieve optimum quality and claims decisions, VA needs to have a system and personnel to perform quality reviews on a sample of decisions from every VA adjudicator. Its current quality assurance program does not provide information on the proficiency of adjudicators at the individual level.

To correct the problems throughout, we believe Congress must invest additional resources primarily at the front end of the process to reduce the additional work required downstream and to break the vicious cycle in which the push for quantity at the expense of quality results in more errors and more rework, ever more adding to the backlog.

That completes my statement, Mr. Chairman, and I would be happy to answer any questions that you may have.

[The prepared statement of Mr. Surratt follows:]

PREPARED STATEMENT OF RICK SURRATT, DEPUTY NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. Chairman and Members of the Committee:

I am pleased to appear before you on behalf of the Disabled American Veterans (DAV) to address the necessity and means to improve timeliness and accuracy in the disability claims adjudication and appellate processes of the Department of Veterans Affairs (VA).

Achieving timeliness with accuracy has long been a major challenge for VA, and an ongoing concern of veterans and this Committee. While increased resources will not alone cure what ills the system, all of the best efforts to overcome the defi-

ciencies are doomed to fail without an admission that inadequate resources are at the root of the problem and without decisive action to correct that cause for difficulties in timeliness and quality.

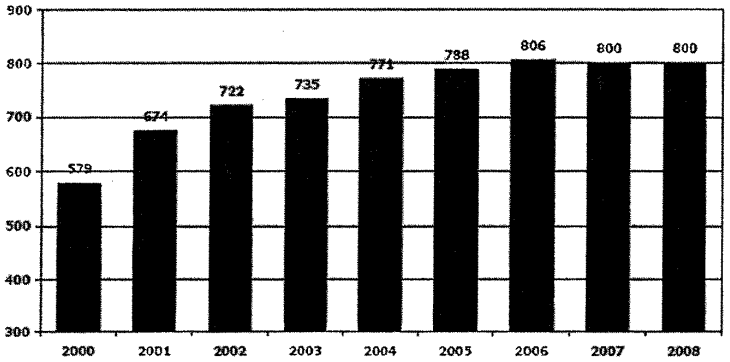
Past reductions in staffing levels degraded VA's ability to process and decide disability claims in a correct and timely manner. After falling behind, it never fully recovered. With continued growth in the volume and complexity of claims for disability benefits, VA has not requested the resources necessary to overcome the existing backlog and stay abreast of that growth, with a consequent adverse effect upon both quality and timeliness of claims adjudication. In each of its budget submissions for recent years, VA has projected improvements but has fallen short of attaining and maintaining reductions in the backlog and improvements in quality. The Fiscal Year (FY) 2008 VA budget submission affords no reason for optimism. VA's actions have not lived up to its promises.

According to its mission statement for its Compensation and Pension Service (C&P), the Veterans Benefits Administration (VBA) "seeks to provide all possible benefits under the law to eligible claimants in a timely, accurate, and compassionate manner, and to the extent possible, apprise potential claimants of possible entitlement to benefits." VA maintains that its 2008 budget provides the resources necessary to timely and accurately process a claims workload that continues to increase in quantity and complexity. According to VA, the requested increase in staffing, new information technology initiatives, quality assurance programs and controls, and employee training will allow it to reduce its pending workload, despite factors that add complexity to the process. However, contrary to its observation that the workload "continues" to increase, contrary to the several-year trend of consistently increasing claims volumes, and contrary to its discussion elsewhere of factors that would likely continue this trend, VA projects, without explanation, that it anticipates "a slight decrease" in receipts in 2007 and 2008. Apparently, this prediction was necessary for VA to project that it could reduce the backlog with the resources it requests in the budget. VA provides this overview at page 6A–2 of Volume II of its budget submission:

> The 2008 budget provides resources to timely and accurately process a claims workload that *continues to increase* in quantity and complexity. Disability compensation and other claims requiring a rating decision are projected to be 800,000 in 2008. If we receive 2007 funding near the levels passed by the House and the Senate, it is projected that our pending workload will decrease throughout 2007, ending the year with 369,980 claims pending in our inventory. In order to achieve our timeliness and accuracy performance goals and to reduce the backlog, hiring of additional FTE [full-time employee(s) or equivalent(s)] is necessary.
>
> The disability claims workload from returning war veterans as well as from veterans of earlier periods *has continuously increased* since 2000. VBA annual claims receipts grew 39 percent from 2000 to 2006—from 578,773 to 806,382, an increase of 227,609. In 2007 and 2008, *we anticipate a slight decrease* in receipts to 800,000. The complexity of the workload will continue to grow, however, because veterans are claiming greater numbers of disabilities and the nature of disabilities such as post-traumatic stress disorder (PTSD), complex combat injuries, diabetes and related conditions, and environmental diseases are becoming increasingly more complex. For example, the number of cases with eight or more disabilities claimed increased 135 percent from 21,814 in 2000 to 51,260 in 2006.

(Emphasis added.)

The rise in claims receipts over the past 7 fiscal years and anticipated receipts for 2007 and 2008 are represented in VA's graph at page 6B–7:



Given that discussion elsewhere in this same area of the budget submission contradicts VA's statement that claims receipts will decrease in 2007 and 2008, the continuing trends of an increase in claims receipts year after year, the absence of any change in circumstances that could be expected to reduce the number of claims filed, and the absence of stated rationale for VA's expectation of fewer claims in the current fiscal year and next year, this appears to be an expedient projection.

The budget submission summarizes the consistent historical trend of increasing numbers of claims received each year for the past several years:

> The number of veterans filing initial disability compensation claims and claims for increased benefits has increased every year since 2000. Disability claims from returning war veterans as well as from veterans of earlier periods increased from 578,773 in 2000 to 806,382 in 2006, an increase of 227,609 claims, or 39 percent. In addition to the increased claim rate, there are two other factors that drive future claims activity. First, over this same period of time the number of veterans receiving benefits has significantly increased, both in terms of whole numbers and as a percent of the veteran population. These veterans, like their predecessors, demonstrate similar disability profiles. Orthopedic, mental health, cardiovascular, endocrine, and hearing problems predominate. Most of these conditions can be characterized as chronic progressive disabilities resulting in repeat claims. Second, the average level of disability for veterans on the rolls has increased steadily in the last 5 years reflecting the aging population. Similar to the chronic condition issue, the aging process is likely to result in additional claims for increased benefits.

(p. 6B–6) During Fiscal Year 2006 alone, "VA added almost 250,000 new beneficiaries to the compensation and pension rolls." (p. 6B–1) From 2002 to the end of last year, VA lost ground in reducing the backlog, with a substantial increase in the number of rating claims pending: "In 2003, VBA was successful in reducing the inventory of pending disability claims to 253,000. . . . The pending inventory of disability claims rose to 378,296 by the end of Fiscal Year 2006." (pp. 6B–3, 6B–4)

The added work from the increase in the sheer volume of claims has been compounded by other factors: "Since 2000, VBA has experienced a steady increase in workload: in claims receipts, claims complexity, and workload generated by improved direct contact with increasing numbers of servicemembers and veterans." (p. 6B–3)

In discussing the "2007 Workload Challenges," VA directly contracts its prediction for fewer claims in 2007 and 2008: "Ongoing hostilities in Afghanistan and Iraq, and the Global War on Terrorism in general, are expected to *continue to increase* the compensation workload. (p. 6B–8) (emphasis added). VA explains:

> More than 1.3 million active duty servicemembers, members of the National Guard, and reservists have thus far been deployed to Afghanistan and Iraq. Whether deployed to foreign duty stations or maintaining security in the United States, the authorized size of the active force, as well as the mobilization of thousands of citizen soldiers, means that the size of the force on active duty has significantly increased. Studies by VA indicate that the most significant predictor of new claims activity is the size of the active force. Department of Defense data show there were more than 213,000 military separations in 2005. These figures do not include the demobilization of Guard and Reserve members and units that remain part of the military. Historical trends suggest that approximately 35 percent (over 74,000) of these separating servicemembers will

file a VA disability claim sometime in their life. The claims rate for Gulf War Era veterans is significant. In 2006, nearly 700,000 veterans and 15,000 survivors of this era received benefits, comprising the second largest population of veterans receiving benefits after Vietnam era veterans.

(p. 6B–8) Of course, we now have additional troops being deployed to Iraq.

In addition to more claims proportionate to the increase in the size of the active force, VA observes that greater numbers of veterans on the compensation rolls means greater numbers of reopened claims:

> The number of veterans receiving compensation has increased by more than 400,000 since 2000, from just over 2.3 million veterans to over 2.7 million at the end of 2006. The compensation recipients, many of whom suffer from chronic progressive disabilities such as diabetes, mental illness, and cardiovascular disabilities, *will continue to reopen more claims* for increased benefits in the coming years as they age and their conditions worsen. During 2006, reopened disability compensation claims comprised almost 55 percent of disability claims receipts.

(p. 6B–8) (emphasis added).

In the 3 years from the end of 2003 to the end of 2006, attendees at benefits briefings for separating servicemembers increased by more than 87 percent, from 210,025 to 393, 345. VA expects to further expand its outreach efforts to servicemembers and veterans, which it naturally expects to result in an increase in the volume of claims:

> VA has increased outreach to active duty personnel and we must continue to expand our efforts. These outreach efforts result in *significantly higher claims* rates. In 2004, the greatest increase in rating receipts was in original claims—an increase of 17 percent (from 167,105 in 2003 to 194,706 in 2004). Original claims increased by an additional 8 percent (to 210,504) in 2005 and by an additional 3 percent (to 217,343) in 2006, which is a 30 percent increase over the last 4 years. We believe these increases are directly related to our aggressive outreach programs and that *the increases will continue*.
>
> . . .
>
> We anticipate the same high level of commitment in future years. Therefore, we expect the outreach hours and claims rate for separating servicemembers to *continue to increase*.
>
> . . .
>
> Outreach efforts have been expanded to reach veterans, particularly older veterans, who may not be aware of the benefits to which they are entitled.

(pp. 6B–9, 6B–10) (emphasis added)

VA suggests that legislation authorizing Combat Related Special Compensation (CRSC) and concurrent receipt of retired and disability pay (CRDP) creates a potential for added workload:

> Today, more than 54,000 military retirees receive [CRSC]. The military is adding between 1,500 and 2,000 retirees to the CRSC rolls monthly. This benefit and Concurrent Retired and Disability Pay (CRDP), another DOD program that permits partial to total restoration of retired pay previously waived to receive VA compensation, further contribute to *increased claims* activity. These claims are exceptionally complex, involving significant coordination with service retired pay centers to determine if retroactive benefits are payable. . . .
>
> . . . Nearly 194,000 retirees receive CRDP. The number of military retirees receiving VA compensation has increased to more than 819,000 since the advent of these programs. There is now significant incentive for retirees receiving compensation to file claims for increased benefits, as the increased amounts may no longer be subject to offset. Additionally, the total number of retirees as of July 2006 was 1,812,108, meaning that only 45 percent of military retirees now receive benefits. There are over 990,000 who could potentially still file claims due to CRSC and CRDP.
>
> In 2007, VA anticipates significant workload to result from the ongoing CRSC and CRDP programs.

(p. 6B–10) (emphasis added)

The budget submission notes that two court decisions may substantially increase VA's workload. In *Haas* v. *Nicholson*, the court held that Vietnam veterans who served in the waters offshore are entitled to the presumption of exposure to herbicides. VA has appealed the Haas decision, but estimates a total of 187,208 claims will be received; 25,000 in 2007 and the remaining 162,208 in 2008 if the decision is not overturned. In addition, a recent ruling by the Federal District Court for the

Northern District of California in *Nehmer* v. *U.S. Department of Veterans Affairs* has extended the reach of the Agent Orange Settlement Agreement to Chronic Lymphocytic Leukemia based upon the extension of the lapsed Agent Orange Act. VA states it has identified almost 1,500 cases that must be reviewed and readjudicated. Under the court's order, VA must mail an outreach notice to approximately 26,000 additional claimants. VA is required to review and readjudicate cases for those claimants who respond to the mailing. VA notes that, due to the unique rules in the *Nehmer* settlement and the stringent time requirements imposed, these cases require significantly more development and management oversight than normal claims. They also require priority processing. (p. 6B–11)

The budget submission also explains how the workload continues to increase due to increases in the number of disabilities claimed, increasing complexity of the claims, and added judicially imposed procedural steps, primarily to fulfill VA's duty-to-assist obligation. Some of these observations from the budget submission are as follows:

• "The number of disabilities claimed by veterans has increased significantly. The number of directly claimed conditions increases the number of variables that must be considered and addressed, making the claim more complex. Multiple regulations, multiple sources of evidence, multiple potential effective dates and presumptive periods, preparation of adequate and comprehensive Veterans Claims Assistance Act notice, as well as adequate and comprehensive rating decisions increase proportionately, and sometimes exponentially, as the number of claimed conditions increases."

• "Combat and deployment of U.S. forces to underdeveloped regions of the world have resulted in new and complex disability claims based on environmental and infectious risks, traumatic brain injuries, complex combat injuries involving multiple body systems, concerns about vaccinations, and other conditions."

• "VA has started to see increasingly complex medical cases resulting in neuropathies, vision problems, cardiovascular problems, and other issues directly related to diabetes. As previously discussed, much like original claims with more than eight claimed disabilities, diabetes claims routinely present multiple variables with which the rating specialist must deal. If secondary conditions are not claimed, the rating specialist must be alert to identify them. This increasing complexity of disabilities adds to the increased complexity of our workload and the resources needed to process it."

• "The number of veterans submitting claims for post-traumatic stress disorder (PTSD) has also grown dramatically and contributed to increased complexity in claims processing. From 1999 through 2006, the number of veterans receiving compensation benefits for PTSD has increased from 120,000 to nearly 270,000. These cases present unique processing complexities because of the evidentiary requirements to substantiate the event causing the stress disorder."

• "The Veterans Claims Assistance Act (VCAA) of 2000 has significantly increased both the length and complexity of claims development."

(pp. 6B–11, 6B–13) All of this signals a continuing trend of more work.

VA points out that this increasing complexity in the workload alone—i.e., with a projected decline in the number of claims receipts for 2007 and 2008—require the additional employees it requests: "More FTE are needed to complete claims in an accurate and timely manner due to the greater number of disabilities veterans now claim, the increasing complexity of the disabilities being claimed, and changes in law and process." (p. 6B–1) This is the basis for the increase in employees VA requests for 2008:

In summary, the number of conditions claimed, the nature of severe traumatic multiple body system combat injuries, highly complex medical conditions, and enhanced legal requirements substantially increase the complexity of the claims process and claims decisions. The resources required to enable us to keep up with the increasingly complex workload are, therefore, significantly greater.

(p. 6B–14)

VA also admitted that staffing levels in the current year are insufficient to gain ground on the backlog: "The current staffing levels do not enable VA to reduce the pending claims inventory and provide timely service to veterans." (p. 6B–4) VA hopes to reduce the backlog some during this fiscal year through "near-term workload reduction initiatives" funded with carryover funds from 2006: "Special near-term workload reduction initiatives are being undertaken in 2007 to increase decision output and stem the upward climb of the pending inventory. These initiatives are being funded through the use of carryover funds from 2006. . . . " (p. 6B–4) VA will bank on these same initiatives to reduce the backlog in 2008: "Special near-term workload reduction initiatives undertaken in 2007 that include employment of rehired annuitants and expanded use of overtime will continue into 2008, enabling

us to increase decision output. With these initiatives, we project that more than 840,000 veterans will receive decisions on their disability claims in 2008. . . . " (p. 6B–1). Again, all of this is premised on a decrease in the number of claims received during 2007 and 2008.

VA notes that increased claims receipts result in increased appellate workloads downstream: "As claims receipts and the number of beneficiaries on our rolls increase, the appeals and other workloads also increase. This significantly increases our resource requirements." VA received 18,000 more claims in 2006 than in 2005, with an increase of only 5 direct program FTE for 2007. With its near-term workload reduction initiatives, VA projects it will increase the number of rating decisions made from 774,378 in 2006 to 808,316 in 2007. (pp. 6B–4, 6B–7) In turn, that will increase its appellate workload:

> As VBA renders more disability decisions, a natural outcome of that process is more appellate work from veterans and survivors who disagree with various parts of the decision made in their case. Veterans can appeal decisions to deny service connection for any conditions claimed and disposed of by a denial. They may also appeal the effective date of an award and the evaluation assigned to a disability. In recent years, the appeal rate on disability determinations has climbed from an historical rate of approximately 7 percent of all disability decisions being appealed to a current rate that ranges from 11 to 14 percent. Thus, the 808,316 projected disability decisions in 2007 are expected to generate between 88,000 and 113,000 appeals. The projected 840,320 completed disability decisions in 2008 will likely generate between 92,000 and 117,000 appeals. At the end of 2006 there were more than 133,000 appeals pending in field stations and the Appeals Management Center (AMC). In addition, there were slightly less than 31,000 appeals pending at the Board of Veterans' Appeals.
>
> This increase in appellate workload seriously impacts our ability to devote resources to initial and reopened claims processing. Appeals are one of the most challenging types of cases to process because of their complexity and the growing body of evidence that must be reviewed in order to process these claims. In 2001, we received 39,000 notices of disagreement, the initial step in the appeals process. From 2003 to 2006, notices of disagreement exceeded 100,000 each year. The number of appeals received is proportionate to the number of decisions made. As workload and the number of decisions made increase, so too will the number of appeals. Likewise, the number of actions taken in response to our appellate workload has increased. In 2001, we processed more than 47,600 statements of the case and supplemental statements of the case. In 2006, this number increased to more than 134,000 statements of the case and supplemental statements of the case.

(pp. 6B–14, 6B–15)

The budget submission projects rating decision output per FTE at 102.8 decisions in 2007 and 101 decisions per FTE in 2008. (p. 6B–4) The budget submission for Fiscal Year 2007 had projected 108 decisions per FTE. (Vol. 2, p. 5B–5) With the projected decrease in claims receipts and its estimated increase in the number of rating decisions in both 2007 and 2008, VA projects that it will reduce the backlog:

> In 2007, we anticipate a slight decrease in disability claims receipts over the 806,382 claims received in 2006, to 800,000 claims. The one-time workload increase in 2006 that resulted from the six-state outreach initiative (approximately 8,000 claims) is not projected to continue into 2007 and 2008. With an FTE level of 7,863 and our near-term workload reduction initiatives, we estimate 808,316 completed claims and an end-of-year pending [rating] inventory of 369,980.
>
> In 2008, we anticipate disability claims receipts will remain level with 2007. Based on a direct FTE level of 8,320 and our near-term initiatives, we estimate completed claims will increase to 840,320 and the pending inventory will decrease to 329,660 by the end of 2008.

(p. 6B–7) If the 8,000 claims from the six-state outreach initiative are subtracted from the 2006 total of 806,000, there was still an increase of 10,000 claims receipts in 2006 over the 788,000 in 2005. Again, VA does not explain its prediction of a decrease in the number of claims receipts in 2007 and 2008, which contradicts its projection in its budget submission for Fiscal Year 2007 that, for 2007, "we anticipate receipts will increase 2 percent over the 2006 projected receipts." (Vol. 2, p. 5A–2)

VA projects that it will reduce the average days to process rating-related compensation and pension actions from 177 days in 2006 to 160 days in 2007 and 145 days in 2008, with a target of 125 days. VA projects that its national accuracy rate for core rating work will improve from 88 percent in 2006 to 89 percent in 2007 and 90 percent in 2008, with a strategic target of 98 percent. (p. 6B–24, 6B–25)

As with this year's budget submission, VA has maintained in its budget submissions for previous years that it will improve claims processing and reduce the backlog with the resources it requests. For example, in its budget submission for Fiscal Year 2006, VA projected its rating decision output for Fiscal Year 2006 would be 109 cases per direct labor FTE and 825,000 total. VA projected that it would reduce the pending inventory of rating claims from 321,458 to 290,000 by the end of 2005, and that it could further reduce the pending inventory to 282,876 by the end of 2006. (Vol. 1, pp. 2A–10, 2A–11.) VA estimated the average time to complete rating-related actions would be 145 days in 2006, with a strategic target of 125 days. It predicted a national accuracy rate for core rating work of 90 percent, with a strategic target of 98 percent. (p. 2A–14) However, as noted, its rating decision output per FTE was 98.5, its total rating production was 774,378 decisions, and it ended Fiscal Year 2006 with an inventory of 378,296 claims with an average processing time of 177 days and a national accuracy rate of 88 percent. Actually, the gap between VA's predicted output for 2006 and its performance is wider than indicated by these numbers because it projected reducing the backlog to 282,876 claims despite the expectation that it would receive 818,076 claims (p. 2A–10) rather than the 806,382 that it actually received. With the resources VA has requested, it has been unable to reduce the backlog. Instead it continues to grow.

A repetition of VA's summary of the trend of annual increases in the volume of claims along with its acknowledgment that it has been unable to make progress in reducing the backlog since 2003 provides a more accurate picture upon which to base expectations for 2007 and 2008, in our view:

> Since 2000, VBA has experienced a steady increase in workload: in claims receipts, claims and complexity, and workload generated by improved direct contact with increasing numbers of servicemenbers and veterans. If resources are insufficient to handle this increased workload, our pending claims inventory rises and presents difficult management challenges. For example, disability claims from returning war veterans, as well as from veterans of earlier periods, increased by 39 percent from 2000 to 2006. In 2003, VBA was successful in reducing the inventory of pending disability claims to 253,000. Since 2004, increased claims and court decisions requiring new procedures and readjudication of claims have precluded VBA from sustaining previous gains.

(p. 6B–3) As of February 17, 2007, the number of rating cases pending was 401,701 of which 111,575 had been pending over 180 days. We are now approaching half way through Fiscal Year 2007 and not moving toward VA's projection of reducing the backlog to 369,980 rating claims.

Discussing external factors that affect the workload, VA observed: "Negative impact could be realized if workload receipts are significantly higher than anticipated. . . . " (p. 6B–30) It appears that VA's projection on claims receipts was wrong or its plan for reducing the backlog is not working.

As we have consistently said, quality is the key to timeliness. Timeliness follows from quality because omissions in record development, failure to afford due process, and erroneous decisions require duplicative work, which adds to the load on an already overburdened system. Quality is achieved with adequate resources to perform necessary comprehensive and ongoing training, to devote sufficient time to each case, and to impose and enforce quality standards through effective quality assurance methods and accountability mechanisms. VA has simply not had the resources necessary to achieve the level of quality required to avoid unacceptable error rates, increased numbers of appeals, and the consequent overload that causes backlogs and delays in claims dispositions.

In connection with its review of variances in average annual compensation payments among the states, VA's Inspector General surveyed rating veterans service representatives (RVSRs) and decision review officers (DROs) to obtain their input on issues that affect the rating of disability compensation claims. RVSRs and DROs expressed generally positive opinions of the quality of their training, but their responses indicated training has not received high priority. Department of Veterans Affairs Office of Inspector General, Rep. No. 05–00765–137, Review of State Variances in VA Disability Compensation Payments 58 (May 19, 2005). In a recent survey of VA raters conducted by the Center for Naval Analysis (CNA) for the Veterans' Disability Benefits Commission, 32 percent of those responding said that getting needed training was among the top three greatest challenges they face. However, VA appears to be doing the best that it can to provide better training to improve quality with the resources it has been given. VA outlines its enhanced training programs in its Fiscal Year 2008 budget submission at page 6B–17. Unquestionably, training is essential, but effective training programs require resources:

> While additional claims processors are critical to deal with this workload, the quality of claims decisions and the services provided is also critical. VBA's robust training program is the key to improving the quality and consistency of our decisions and will enable us to be flexible and responsive to changing workload volumes. VBA is engaged in an ongoing effort to improve its training systems for new employees and to raise the skill levels of its existing staff. Improved quality and consistency require resources dedicated to providing employees with more and better training, up-to-date tools, and IT systems to support their decisions.

(p. 6B–6) The most essential resource is experienced and knowledgeable personnel devoted to training: "Our need to continually enhance our national quality assurance and training programs necessitates additional staffing that will improve consistency, quality, certification, and timeliness." (p. 6B–17) If experienced adjudicators must spend part of their time training other employees, there must be more employees overall to avoid falling further behind in battling the backlog.

Regarding sufficient time to properly develop and decide a claim, RVSRs and DROs surveyed by the Inspector General's Office thought VA management's emphasis on quantity rather than quality had an adverse effect upon their ability to properly dispose of claims:

> RVSRs and DROs believe their objectives are different from those of their managers. We asked them to rank the importance of 16 potential objectives. Their responses indicated that when rating claims their most important objectives are complying with applicable criteria, granting the highest ratings allowed, and ensuring they have sufficient information before making decisions. We also asked them to rank the importance to their managers of 15 comparable objectives. Their responses indicated that they believe the most important objectives for their managers are maximizing the number of ratings done each day, reducing the backlog of pending work, and improving the timeliness of ratings.
>
> Survey responses showed that RVSRs and DROs are concerned about their production standards, and many respondents indicated that the need to meet production standards adversely affects the quality of their work.
>
> • Forty-seven percent said it is generally difficult or very difficult to meet their daily production standards; 22.5 percent said it is generally easy or very easy.
> • Forty-nine percent strongly disagreed or disagreed somewhat with the statement that they have no difficulty meeting their production standards without sacrificing quality; 30.5 percent strongly agreed or agreed somewhat with that statement.
> • Fifty-seven percent strongly agreed or agreed somewhat with the statement that they have difficulty meeting their production standards if they make sure they have sufficient evidence for rating each case and thoroughly review the evidence; 24.1 percent strongly disagreed or disagreed somewhat with that statement.

VA OIG Report at 60?61. Among the raters responding to the CNA survey, 85 percent said that having time to process a claim was one of the top three greatest challenges.

The survey of RVSRs and DROs by VA's OIG cited insufficient staffing as the cause for too little time: "Most RVSRs and DROs do not believe [VA Regional Offices] have sufficient rating staff. Sixty-five percent indicated that the rating activities in their offices have somewhat smaller or much smaller staffs than needed to provide timely and high quality service." VA OIG Report at 61. The OIG report quoted the following narrative remark from the survey: "Although management wants to meet quality goals, they are much more concerned with quantity. An RVSR is much more likely to be disciplined for failure to meet production standards than for failing to meet quality standards." VA OIG Report at 61

Sufficient staffing permits sufficient time to properly develop and decide claims and sufficient time to devote to training without allowing the backlog to grow. Discussing survey responses from RVSRs and DROs, the OIG report at page 61 noted: "The most frequently discussed issue, mentioned by 193 respondents, was management's perceived emphasis on production at the expense of quality. The second most frequently discussed issue, mentioned by 44 respondents, was the need for more and better training."

VA's quality assurance tool for compensation and pension claims is the Systematic Technical Accuracy Review (STAR) program. Under the STAR program, VA reviews a sampling of decisions from the regional offices and bases its national accuracy measures on the percentage with errors that affect entitlement, benefit amount, and effective date. If STAR were being used effectively, we question why VA did not detect the substantial variations in average annual compensation payments from state

to state brought to light by the news media and thereafter investigated by the VA Office of Inspector General in 2005.

Inconsistency signals outright arbitrariness in decisionmaking, uneven or overall insufficient understanding of the governing criteria or rules for decisions, or rules which are vague or overly broad so as to allow them to be applied according to the prevailing mindset of a particular group of decisionmakers. Obviously inconsistencies must be detected before the cause or causes can be determined and remedied.

To address concerns about substantial variations in average annual compensation payments among the states, VA's OIG reviewed compensation awards from the six states with the highest average annual payments ("high cluster") and the six states with the lowest average annual payments ("low cluster") finding that veteran demographics and inconsistent rating decisions may account in part for the variations. OIG also found that claims processing practices, the quality of disability examinations, staffing levels, production pressures, and adjudicator experience and training may influence payment levels. On average, veterans in the high cluster states had more service-connected disabilities and higher disability ratings than veterans in the low cluster. In general, training was a higher priority, adjudicators were more experienced and had less difficulty applying the disability rating schedule, disability examinations were judged better, and error rates were lower in the high cluster states. Adjudicators in the high cluster states took longer to adjudicate claims, although the pressing backlogs were smaller there and they shipped fewer cases to other offices for adjudication. High cluster states had higher percentages of (1) represented veterans, who were shown to be higher compensated than unrepresented veterans; (2) Vietnam veterans, who were shown to be higher compensated than veterans of other periods; and (3) veterans of the enlisted ranks, who were shown to be higher compensated than veterans of the officer ranks. In the high cluster, a higher percentage of veterans exercised their right to appeal than in the low cluster. These findings suggest that the trend of lower payments in some states may be due in part to lower proficiency in adjudication. Adequate resources are essential to proficient claims adjudication.

The variations between veterans represented by service organizations and unrepresented veterans were particularly marked. The national averages showed that veterans represented by accredited service organizations had substantially higher levels of compensation than veterans without representation. The national average annual payment for veterans with representation was $10,631, compared with a national average of $4,406 for unrepresented veterans. All the states in the high cluster had higher percentages of represented veterans. Nationwide, 63.8 percent of the veterans receiving compensation were represented. In the high cluster states, 69.5 percent of the veterans were represented. In the low cluster states, 54.7 percent of the veterans were represented. In the high cluster states, veterans with representation had an average annual payment of $13,488. Represented veterans in the low cluster states had an average annual payment of $9,891, above the national average of $8,378 for all veterans. Though well below the national average for represented veterans and below the national average for all veterans, unrepresented veterans in the high cluster states had an average annual payment of $5,637, compared with only $3,862 for unrepresented veterans in the low cluster states. Thus, represented veterans in the high cluster states received an average annual payment that was $7,644 higher than the average annual payment of unrepresented veterans in low cluster states. The most telling fact here is that the average annual payment of $9,891 for veterans in the six states with the lowest average annual compensation payments who had service organization representation was higher than the national average of $8,378 for all veterans. This would suggest that veterans service organization representatives are serving in a role of quality assurance, in addition to assistance in thorough record development.

As a result of these revelations about variances, VA has undertaken an effort to identify unusual patterns of variances and assess the degree of consistency among its regional offices to enable it strengthen guidance and target training to problem areas: "C&P Service has begun a process of identifying unusual patterns of variance by diagnostic code, and then reviewing selected disabilities to assess the level of decision consistency among regional offices. The outcome of these studies and STAR accuracy reviews will be used to identify the need for additional guidance and training to improve consistency and accuracy, as well as to drive procedural or regulatory changes." In addition, VA will conduct site surveys for compliance with directives. (p. 6B–17)

The Board of Veterans' Appeals (BVA) now identifies, by the specific reason, the number of cases it remands each year to correct deficiencies in the record or for due process. In Fiscal Year 2006, BVA remanded claims for a medical opinion in conjunction with an examination in more claims than for any other reason. This data

should aid VA in identifying and remedying deficiencies that add to the cycle of rework, and we hope this information is being utilized for that purpose, along with STAR results and other efforts for improvement.

While VA's increased efforts are a move in the right direction, we believe they still leave a gap in quality assurance for purposes of individual accountability for quality decisionmaking. To complement its STAR program for measuring quality at the national level, VA announced in the year 2000 a new initiative for quality review at the individual level. Acknowledging that management needed a tool to consistently monitor individual performance, VA created the "Systematic Individual Performance Assessment" (SIPA) program. Under this program, VA would review an annual sample of 100 decisions for each adjudicator to identify individual deficiencies, ensure maintenance of skills, promote accuracy and consistency of claims adjudication, and restore credibility to the system. The reviewers would perform related administrative functions, such as providing feedback on reviews, maintaining reports, and playing a role in employee development and ongoing training. Unfortunately, VA abandoned this initiative during 2002, and proficiency is now apparently subjectively assessed by supervisors based on their day-to-day perceptions of employee performance. Without any actual systematic review of samples of an individual adjudicator's decisions, deficiencies are more likely to go undetected and unremedied. We understand that the culprit behind abandonment of SIPA was inadequate resources. Without any quality assurance review on the individual level, VA is unlikely to impose effective accountability down to the individual adjudicator level, where it must go if optimum quality is to be attained. We believe today's VA workforce is conscientious and desires to make the best claims decisions possible, but it needs the time, training, and tools to do so, and the tools include a source of direct feedback from individualized quality reviews. Congress must provide VA management with the necessary resources, and VA management must create a culture of quality and make a genuine commitment to the mission of providing "all possible benefits under the law to eligible claimants in a timely, accurate, and compassionate manner."

As noted, a natural consequence of increased numbers of claims is that the volume of pending appeals and time for resolution of appeals has also increased in recent years. The natural increase in the volume of appellate workload is compounded by the effects of not sufficiently increasing staffing at regional offices to meet increased claims volumes and complexity, which adds to the overload and prolongs the processing times for appeals at the regional office level. As indicated, at the end of 2006, there were more than 133,000 appeals pending in VBA field stations and VBA's Appeals Management Center (AMC). This was up from the nearly 130,000 pending at the end of 2005. Another consequence is increased numbers of remands, which primarily impacts on workload, timeliness, and resource needs at the AMC. However, with a joint effort by VBA and BVA to reduce the number of remands, the number of cases on remand declined from 31,645 at the end of 2004 to 21,229 at the end of 2006, according to VA's budget submission for Fiscal Year 2008. (Vol. II, p. 7C–4) Most remands are processed by the AMC, which had 15,875 cases on hand on February 22, 2007. Our employees who deal with the AMC and our employees at BVA generally give AMC high marks for quality.

VBA field offices resolved 74,440, or 72 percent, of the 103,212 appeals resolved in 2006 without necessity for action by BVA. VBA resolved another 3,749, or 10 percent of the total, on remand. Although we do not have current VA data on the percentage of appeals favorably resolved by DROs, we suspect it is substantial. The DRO program has been a success story since it was instituted as a part of VBA's Business Process Reengineering program several years ago.

In 2006, BVA decided 25,023 cases on the merits according to the budget submission and remanded 12,487 according to the Report of the Chairman of BVA for Fiscal Year 2006. (p. 20) The Report of the Chairman summarized the Board's production for Fiscal Year 2006 as follows:

> The Board issued 39,076 decisions in Fiscal Year 2006, an increase of 4,901 over Fiscal Year 2005, when we issued 34,175 decisions. [Board members] conducted 9,158 hearings, which is an increase of 582 hearings held over Fiscal year 2005. The majority of the line [Board members] exceeded their productivity goals and traveled to at least three [regional offices] to conduct 1 week of Travel Board hearings at each site. However, the number of cases pending before the Board at the end of Fiscal Year 2006 was 40,265, which is almost a 3,000 case increase over the 37,539 appeals that were pending at the end of Fiscal Year 2005. This increase occurred despite the fact that the Board issued almost 5,000 more decisions in Fiscal Year 2006 than the previous year. If we continue to receive the same high number of appeals and hearing requests each year, the

> ability to conduct hearings and decide appeals on a timely basis with the current business plan strength of 56 [Board members] will present a challenge.

(p. 3)

The budget submission for Fiscal Year 2008 describes BVA's quality assurance program as one that looks at all aspects of decision quality but focuses on substantive qualities for reporting purposes:

> BVA has a formal quality review program to review the quality of decisional products and to identify areas in which professional training is needed. In this quality review process, an ongoing, statistically valid sample of BVA decisions is reviewed and components deemed essential to a quality appellate decision are assessed on a pass/fail basis according to established standards. The five areas examined and scored are: (a) identification of issues; (b) findings of fact; (c) conclusions of law; (d) reasons and bases/rationale for preliminary orders such as remands; and (e) due process. A quantified baseline for decision quality was established for the first time at the outset of 1999. This provided the Board a foundation for establishing quantified decision quality goals and pursuing continuous improvement in the quality of decisions through repeated measurements. In accordance with a GAO recommendation, we consider only substantive deficiencies in our quality assessment. However, while the primary focus is on identifying, quantifying, and correcting substantive errors, we still address minor deficiencies and seek to improve all aspects of our decisions. Areas of deficiency highlighted through this process are used to determine BVA training needs.

(p. 7C–5) BVA reported a "Deficiency-free Decision Rate" of 89.0 percent for 2005 and 93.0 percent for 2006. Its target for 2007 and 2008 is 92.0 percent. (p. 7C–5)

VA uses two measures for timeliness in appeals processing. "Appeals Resolution Time" is the average time from the initiation of the appeal by receipt of a notice of disagreement and the final decision, either by VBA or BVA. "BVA Cycle Time" is the time from receipt of the appeal by BVA until dispatch of a BVA decision, excluding the time the case was with the appellant's service organization representative. Where the first measure is the average total time for an appellant to receive a decision, the second reflects more directly on BVA's timeliness.

Timeliness in appeals processing declined in 2005 and 2006. Appeals resolution time increased from 529 days in 2004 to 622 days in 2005 and 657 days in 2006. VA projects that it will further grow to 685 days in 2007 and 700 days in 2008. BVA cycle time increased from 98 days in 2004 to 104 days in 2005 and 148 days in 2006. VA projects that it will improve to 105 days in 2007 and 104 days in 2008. (p. 7C–2)

Given that VBA resolved nearly three-quarters of appeals decided in 2006 without the added time the case would have otherwise been before BVA, the appeals resolution time was much shorter than for those cases that were decided by BVA. According to the timeline in the Report of the Chairman, in a case decided by BVA, the time between the receipt of the notice of disagreement and issuance of a BVA decision was 971 days. (p. 16). The Chairman's report indicates the average elapsed time between receipt of a notice of disagreement and issuance of a statement of the case was 188 days; between issuance of a statement of the case and receipt of the appellant's perfection of the appeal was 42 days; between perfection of the appeal and field office certification of the appeal to BVA was 489 days; and between receipt of the certified appeal and issuance of a BVA decision was 252 days, for the total of 971.

The budget submission requests that the staffing level for C&P Service be increased from the 7,858 FTE authorized in 2006 to 8,320 in 2008. (p. 6A–10) Considering that VA is falling further behind in 2007 despite special efforts to reduce the backlog and given the probability that claims receipts will increase, this staffing level is likely to be inadequate, just as the current staffing level is inadequate, a fact VA admits. The budget submission requests that the BVA staffing level be increased from the 2006 level of 452 FTE to 468, an increase of 16. (p. 7C–10) As noted, with its current staffing and that requested for 2008, BVA expects its quality to suffer a slight decline from 2006 levels.

To correct the problems throughout, we believe Congress must invest additional resources primarily at the front end of the process to reduce the additional work required downstream and to break the vicious cycle in which the push for quantity and the expense of quality results in more errors and more rework adding ever more to the backlog.

We appreciate the opportunity to present our views on this most important matter, and we hope this information will be helpful to the Committee as it seeks to improve services to disabled veterans.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARACK OBAMA TO RICK SURRATT, DEPUTY NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Question 1. In an ideal world, and I know that's a big leap, what would be the aspiration of the VBA and Board of Veterans' Appeals, whether in terms of claims worker to Veteran ratios, in terms of turnaround time, or some other measure to indicate that we are doing right by our Veterans. In short, and I know I'm putting you on the spot, what would an ideal VBA look like?

Response. The problem is well known and longstanding. The volume of claims received exceeds the volume of claims decided. With more work coming in than is going out, the inventory of claims pending accumulates into a backlog that cannot be timely processed. The reason for this is a claims volume that exceeds VA's production capacity. This imbalance is a product of increasing numbers of claims compounded by increasing complexity in the nature of many of the claims without a corresponding increase in personnel to meet workload demands. Rather than address this problem with increased resources, VA has been forced to push its decision-makers to produce more, which, in turn, requires that less time be devoted to developing and deciding claims. Inevitably, quality suffers, and the necessity to correct mistakes adds even more to the workload.

VA cannot control the volume and complexity of claims for disability benefits. Unless we remove our Armed Forces from the Global War on Terrorism and the perilous circumstances inherent in any military environment or reduce or eliminate benefits for disabled veterans, Congress cannot impact the volume or complexity of claims. Neither of those are realistic or acceptable solutions. The problem has persisted and will continue to persist, perhaps even worsen, if claims receipts are not forecasted accurately and resource needs are not stated honestly.

The solution begins with an increase in personnel. Along with that must come better training and the development of better quality control measures. Even for VA, determining resource needs is not an exact science, but the problem has been that VA's resource requests have been tailored to the Administration's budget targets rather than being a true approximation of the personnel needed to handle the work expected.

The challenge for Congress and stakeholders, such as the organizations preparing The Independent Budget, in making an independent assessment of VA's needs is that they must look behind the Administration's assessment and its sometimes expedient assumptions to the hard data and historical trends to determine if the Administration's projection is out of line with what can reasonably be expected, given the workload trends, the VA's past production numbers, and VA's success or failure to reduce the backlog with the resources it had in recent years. In its estimates of future claims receipts, VA can easily adjust the numbers to suit the limits imposed upon it by the Office of Management and Budget, but it cannot as easily manipulate the numbers with its historical reporting of workloads and its performance relative to those workloads. Those circumstances place us in a better position to question the legitimacy of VA's request than to make our own more exact determination of VA's needs. Nonetheless, by looking at the historical workload trend, current factors that may influence that trend, and past performance, we can roughly project the number of employees necessary to produce the number of decisions required to dispose of the incoming workload and begin to make some gains in reducing the backlog. That method assumes no appreciable increase in worker productivity or administrative efficiency, such as VA often assumes in its calculations, because experience does not justify it. The shortcoming is that we must rely on VA data, use VA's methodology, and use recent experience to adjust VA's assumptions. While the resulting approximation may prove to have missed the mark somewhat, it almost invariably demonstrates that VA's budget request is too low, and the higher projections of The Independent Budget are vindicated year after year by VA's repeated failure to meet its stated timeliness and backlog reduction goals.

Unless VA's budget requests start to provide a more honest assessment of the resources needed, Congress must rely on its own judgment, aided by stakeholder input such as that from The Independent Budget. Staffing levels can be determined in terms of ratios between projected claims volume and individual employee production expectations. Those expectations can be arrived at by looking at past performance. An important consideration is to be mindful that, because VA is already far behind, it will need more personnel to catch up than to stay even once the backlog has been reduced to the optimum pending inventory of claims.

The optimum pending inventory of claims would be the minimum required to ensure a steady workflow and avoidance of employees being idled by a lack of work. This volume would determine the optimum time that a pending claim would be in

the queue awaiting action. Beyond that, the optimum processing time from receipt of a claim to a decision and payment of benefits would be determined by optimum times for responses to requests for records from the Department of Defense, VA, and private entities along with the task times for each action in claims development and decisions. Beyond a point of optimum efficiency, these turnaround and task times would be irreducible.

To set accurate standards for optimum claims inventories and processing times, VA must refine its methods for quantifying its workload. A claim for service connection involving three separate disabilities might take no more time than a claim for service connection of a single disability as far as obtaining military medical records or other record development is concerned, but the three-issue claim can logically be expected to require more time for a decision than a single-issue claim. Rating the severity of a disability involving subjective symptoms and necessary judgments can be expected to require more time than one in which the disability is measured more mechanically by objective signs. Rather than treating all claims as equal, these kinds of variables must be taken into account if VA is to accurately measure its workload for purposes of planning and requesting resources.

With staffing matched to workload, there would be adequate time to completely develop and carefully decide a claim thereby avoiding the counterproductive effect of errors and rework. Naturally, the better trained the employee the higher the likelihood that an accurate decision can be made in a shorter time. An influx of new employees would require substantial resources for proper training. VA simply cannot afford to attack this problem by diverting experienced adjudicators away from deciding claims to train new employees. Here, it would seem that VA needs to standardize training, and centralize it to the maximum extent practical. For necessary hands-on training at regional offices, VA should have a staff dedicated exclusively to training. VA has used rehired annuitants for training with some success. Of course, newer employees could continue to seek advice and assistance from experienced adjudicators working alongside them.

As we have testified, another essential element is individualized quality reviews to enable VA to assess and improve individual performance. The current STAR program measures quality on a national and regional office level.

With adequate staffing, improved training, and better quality control, VA can achieve quality. From quality, timeliness follows.

Until VA takes a comprehensive approach to studying and employing methods to address all these interdependent elements of efficiency, we do not believe it is possible to determine precisely in terms of days what is achievable in claims processing timeliness goals, beyond those irreducible minimums inherent in the process and its governing rules.

Until VA gets its backlog, and thus its quality, under control, BVA will continue to need staffing sufficient to meet an increasing appellate workload. With the problems fixed at the front end of the process, the percentage of decisions appealed should decline. In addition, the number of cases remanded for additional development should decline. However, a mass adjudication system as large as VA's cannot be expected to achieve perfection. We will continue to need a strong appellate board within the administrative process, but the primary focus should be on correcting deficiencies at the first level of adjudication. In addition to correcting errors and deciding finer points of law, BVA can serve as an important part of VA's quality assurance program.

Question 2. The productivity of the compensation and pension staff within the VBA is of great concern to all of us. Yet, how do we ensure that we're setting the right targets and goals for them, without creating the wrong incentives? How do we better give them the support they need to apply the highest level of expertise and judgment on a particular claim, while doing so efficiently?

Response. In production efficiency, there is always a balance between thoroughness and time. Neither can be completely ignored in favor of the other. Yet, as stated, VA must have adequate resources to achieve quality first because it can never achieve real timeliness if unacceptable error rates require rework, adding to the backlog and appellate workload and resulting in protracted claims and appeals processing times for those having an immediate and often urgent need for the assistance they seek. Instead of a situation in which timeliness follows from quality, it has been the other way around in VA where the level of quality has depended on how much cases are backlogged and how much pressure is put on to quickly decide cases for production quantity. In the past, Congress has been somewhat hypocritical in accepting the Administrations' inadequate resource requests and criticizing VA for losing ground against the backlog. Criticizing VA for poor timeliness without providing adequate resources creates a strong incentive for managers to push for production at the expense of quality. Again, Congress should provide the resources nec-

essary for a focus on quality through an adequate workforce, adequate training, and an adequate quality assurance and feedback program. Although achieving all of this will require an immediate investment of money, it cannot be achieved immediately and will require a longer investment of time.

To get a candid view from within VA, we posed these questions to a former management employee who is in a position to understand more specifically VA's real needs for the Compensation and Pension Service. The following are the answers to questions
1 and 2:

Response to Question 1. 1VBA would need to increase its staffing level in Compensation and Pension by nearly 23–25 percent from the fiscal year 06 staffing level of 7858 FTE. VBA would need at least 9665 FTE (+23 percent), an increase of 1807 FTE. This 9665 FTE includes 9115 to develop and decide claims and appeals along with another 550 FTE to prepare and deliver training and conduct regular (monthly) performance reviews of the work. Given timeliness expectations (claims decided within 120–180 average days), quality expectations (90 percent or more of decisions are error free), consistency expectations (applying national policy directives evenly for those decision criteria that require judgment for issues of service connection and evaluation of disabilities), additional staff is needed to meet these goals before we even consider any productivity goals. Moreover, retirement and attrition rates should average 6–8 percent over the next 2–3 years as employees retire. This means that VBA should lose another 471 to 629 FTE per year which it will need to backfill/recruit in the coming 2–3 years in addition to the 1807 FTE to get to and maintain the overall 9665 FTE level in Compensation and Pension.

Finally, given the rising number of disabilities claimed per veteran, coupled with the complexity of the current laws and regulations, including the legal requirements governing the number of requests and follow-up requests needed to fulfill VBA's "duty to assist" in obtaining medical and other evidence, a significant increase in staffing is needed in those positions that develop evidence (VSR) and decide claims (RVSR). Consequently, just about all of the increased staffing outside staff for the training and performance reviews (1251 FTE) would go to strengthening these positions. Moreover, VBA recent budget formulation models do not include the 550 FTE to build necessary infrastructure for training and quality. If VBA's staffing level in Compensation and Pension were increased by 25 percent rather than 23 percent from fiscal year 06 levels, it would need yet another 157 FTE or 9823 total FTE. If a mistake in staffing is made, I would recommend the 25 percent increase rather than 23 percent given the mission and the current situation. Attrition rates would quickly bring VBA into equilibrium to prevent overstaffing for any length of time.

Response to Question 2: Wrong incentives have been set in the past and continue to be set. We all recognize that productivity is important, but not at the expense of consistency, quality, and timeliness. Stressing productivity goals is a big mistake and will continue the problems we have seen with inconsistency of decisionmaking, poor quality, and poor development of claims. Gathering and evaluating evidence continues to be the major problems affecting the timeliness and quality of VBA decisionmaking. Consequently, greater emphasis should be placed on these aspects of the process and less on productivity. VBA does not have any real data on the amount of work that can be produced with quality levels that are reliable and trustworthy. Stressing quality, consistency and timeliness first and foremost would allow VBA to better set more realistic organizational and individual productivity goals and standards. Finally, VBA needs more staffing even if the number of claims decided each year remain constant.

The increasing complexity of the work coupled with judicial oversight ensure that more work effort (FTE) is needed to develop and decide claims than was expended traditionally. The data continues to show that more disabilities per claim are filed than in the past, more claims per lifetime per veteran are being filed, and more effort is being expended by VBA to gather evidence and explain decisions that it did in the past. All of these factors require a completely different approach to productivity and efficiency than has been taken in the past. The traditional measure of productivity, end products taken, no longer accurately reflects VBA work effort and must be abandoned as it takes too big a toll on service levels, i.e., quality and consistency.

Chairman AKAKA. Thank you very much, all of you, for your statements.

Mr. Rowan and Mr. Surratt, you know that the VA has a strategic goal of 125 days for a veteran to have his or her claim rated.

My question to you, with all your experience, is: What is an acceptable amount of time for a veteran to have his or her claim rated?

Mr. SURRATT. Well, Mr. Chairman, I will not give you an exact number of days, but I will tell you—I think I can tell you how we should figure that. A veteran files a claim, and there is a certain amount of turnaround time, the mailing back and forth between the VA and the veteran, an average time for that. There are task times, how long it takes to look at a record to see how much it needs to be developed, and those things can be determined. Task times, how long it takes to make a decision on a typical claim. There are statutory times that the VA has to give the veteran a certain amount of time to respond. So there is an irreducible amount of time. Where the real problem is, is the amount of time that these cases spend in the queue waiting to get to the next action.

You heard someone mention this morning about reducing the amount of time that veterans get to 30 days to do something. If you look at the time line on appeals, for example, veterans, once they file a Notice of Disagreement, VA sends them a statement of the case, and they have 60 days to respond to that statement of the case. I think the average time that veterans respond is about 42 days.

But then after the appeal is certified at the regional office and theoretically ready for a decision by the BVA—I don't remember how many days it is, but it is something like 600 days between the date it is certified and the date that it goes to the Board of Veterans' Appeals. That is where your delays are. A hundred and twenty-five days to me does not sound unreasonable. The amount of time it should take to decide a case is the optimum amount of time that it needs to stay in the queue and adding on these task times that are irreducible.

You heard Admiral Cooper say that you need to have a certain amount of backlog. I mean, you need a steady workflow. You do not want to ever be in the situation where you are totally caught up because you have people idle. But there is also an optimum amount of backlog that you need to keep that workflow steady, and those things can be determined. That is not exactly rocket science, but where you can identify the delay is where these cases sit idle between these steps, and the reason they sit idle is because VA does not have—they are backed up, and they wait there forever for the next step to be taken.

So that is where you need to focus on when you reduce the amount of time.

Chairman AKAKA. Mr. Rowan?

Mr. ROWAN. I would concur with Mr. Surratt's statement on a lot of that, particularly with the issue of the time it takes when a case is deemed denied and then it has to go to the Board of Veterans' Appeals. There is a real problem of getting it out of the regional office, even down into the Board of Veterans' Appeals to even start their process, which takes a significant amount of time.

Clearly, I also agree that a lot of the time is lost in moving things around, and one of the other things that concerns me is this idea of putting everything in one basket for, as already occurs now. I happen to do a lot of my work, when I was doing it, out of the

Manhattan VA Regional Office, which, unfortunately, was one of those regional offices where the staff disappeared. I mean, the place is like a ghost town because of retirements, and they never got backfilled and replaced. And, therefore, they said, well, gee, we do not have enough staff, so we have got to outsource all your claims. So they started sending them all over the place, and they end up in different parts of the country.

The problem with that is, it takes time to move all of these cases out of New York, literally take that file and mail it out to somebody else, and when they have adjudicated, mail it back. We never get to talk to that adjudicator sitting out in Togus or wherever they are. And that is a problem because there is no interface between the rater making the decision and building up the case and the VSO who is working on it. And that is a problem. So, I mean, I am really concerned about that.

The 120 days is more than reasonable if they ever got anywhere near that. The reality is that is not even close. Even the duty to assist letter that we see that goes out initially does not get to the veteran half the time in 30 days, and then they are supposed to have "X" amount of days when they start the clock. So there is a real backlog problem.

Again, I cannot state enough, they have got to get back to the problem that they are not electronic, that these files sit on paper. I will tell you, I would not want to be a rater at the VA. I would not want to be somebody who has to work in that system. If you go to any of these VA regional offices and you look at these people and look at their desks, and then you look at the two desks that are empty next to them—because those raters retired—which are filled up with all of the case files that they are actually working on, then you can see immediately visually why there is a problem. And it is just too obvious.

Mr. SURRATT. Mr. Chairman, I have some of those exact times, if you would permit me to give them to you, on the time that an appeal sits. Again, once a veteran files a Notice of Disagreement, VA responds by sending the veteran a statement of the case, and the statement of the case outlines the facts and the law that were considered in how they arrived at the decision. And for the appeal to go forward, the veteran has to perfect that appeal by filing a substantive appeal or a Form 9. Now, they have 60 days administratively to do that. I mean, actually, they have a year, but VA deactivates the appeal if they do not respond in 60 days. On average, veterans respond in 41 days.

Once that Form 9 is in the file, the appeal is theoretically perfected and it is ready for a BVA decision. But the average time nationally in 2006 between the time the appeal was perfected and the time it was received at the Board of Veterans' Appeals was 489 days.

So if you want to find where the time is, it is in things like that. I do not know why appeals sit in the regional offices for, you know, 489 days between the time they are theoretically ready for a decision, but those are the areas that need to be looked at.

Chairman AKAKA. All right. Thank you for that.

Mr. Rowan and Mr. Surratt, you heard Admiral Cooper's response to my question about prioritization of Global War on Terror

claims. In your opinion, are enough measures being taken to ensure that other veterans with claims in the system are not adversely affected by that prioritization system of Global War on Terror claims?

Mr. ROWAN. I am not sure that that is happening. I think, in fact, something has got to happen somewhere. I mean, if you squeeze the balloon on one end, it has got to pop out somewhere else.

I understand they are trying to do it, and maybe if they do, in fact, put all the cases in one or two regional offices and create the Tiger Teams they are talking about, maybe they can speed up the process and, therefore, not totally or completely adversely affect everybody else's claims. We had seen this earlier on when they had these over 70-years-of-age cases. And, again, it was quite obvious, they wanted to get the claim done before the veteran died, unfortunately. But even dealing with Vietnam veterans, they are in that situation on many cases, and there are ways you can try to prioritize a case within the VA. If I have got somebody who is literally dying from cancer, I can go there to get the VA regional office to speed that claim up. You know, and you have got all of these kinds of priorities.

But I will get back to the more basic one, which is when the veterans file a claim and they are in that situation that one of the Senators had talked about earlier, and you are sitting there waiting to get your claim adjudicated to pay your rent because you cannot work anymore because of your physical disabilities which you believe is a service-connected illness, you are hung out to dry. That case just gets pushed further and further back because you are giving priority over here—and I am not saying we should not help these veterans—in making sure that system works. And maybe they ought to be the test case for creating an electronic system, and maybe we should say, fine, we are going to take all the OIF cases and make them electronic and get that—I mean, you can buy a computer system off the shelf. DOD has a million computer systems. I cannot believe we cannot create one in 30 days to make the system work. High-speed scanners are easily available. All of these things are existing and right now we can walk outside and I can give you 20 vendors who will sell all that stuff to the VA tomorrow.

Somebody has got to make that decision to throw the switch to turn it into an electronic system, and I would feel better if, in fact, they were going to give the OIF priority cases that kind of system. And if the DOD has all this electronic records, which I believe they already have on all these veterans coming out of the military today, because they are smarter and they are dealing with all this computer stuff and not with what we did in my day and age, then I think that should be a good test case. Maybe that should be the cases that get set aside, and maybe that is how they try to prioritize it and at the same time affect radically how the whole adjudication process occurs. And maybe they will learn some lessons in the process.

Chairman AKAKA. Mr. Surratt?

Mr. SURRATT. Well, Mr. Chairman, as Mr. Rowan had said, anytime you send someone to the front of the line, you send someone else more to the back of the line, and that delays their case. I think

priorities of this type may be necessary, but they are a reactive, short-time solution. If the system was working efficiently, you would not need priorities. Everyone would get their claims decided timely.

Let me say something about the BDD thing along those lines. To qualify for that, you have to have a certain number of days left in the military, and you have to have a known discharge date. So that applies to veterans who are being discharged regularly who may have disabilities. But all these seriously disabled veterans in these medical hold companies do not have entitlement to that because they do not have a known discharge date. And sometimes their records are not there yet and so forth. So the more severely injured veterans do not get the benefit of the BDD, which is intended to speed up their claims.

So I think if the military and VA could get together and somehow work that out to where these veterans that we hear about over in Walter Reed and in Madigan in Seattle and places like that, or in the medical hold companies, I think they should find a way to get them under the BDD process or a similar process, too, because if anyone is deserving of expedited service, they are.

But getting back to the priorities, you give one veteran a priority, someone else suffers, and that is not an ideal situation.

Chairman AKAKA. Mr. Rowan?

Mr. ROWAN. Senator, can I just add something? The other process is that a lot of the people in the DOD in the military hospital system do not want to get out of that system because they do not want to go to the VA system because they hear the horror stories of the people who are getting out. So a lot of times it is the soldier, the military person who is saying, "I want to stay here because I am getting good service here. If I go out to the VA, God knows what is going to happen to me. And they know they are not going to get their claim adjudicated right away upon their getting out. Meanwhile, they are sitting there getting their military pay while they are sitting in the hospital. I have seen that, case after case on that, where I finally get the person discharged and then I have got to start the VA process instead of having the whole thing done. I mean, they could adjudicate between—no matter what date the person is getting out, if they have somebody who has had an amputation, they know what it is. I mean, let's be honest here. So we can take care of a lot of that.

Chairman AKAKA. Well, thank you.

Mr. Bertoni, VA obtains records from the U.S. Army and Joint Services Records Research Center for some post-traumatic stress disorder claims. As GAO has indicated, lag time affects VA's processing timeliness and decisional accuracy. Can you say something on this issue? How do we know that information that VA receives from these groups is accurate?

Mr. BERTONI. That is a two-part question. In terms of the PTSD you are referencing to, PTSD claims, I think, in general, getting records from these sources is difficult because medical records and service records are oftentimes spread out across various areas and oftentimes are not where they are supposed to be or they are lost. In our report, we were concerned, we focused on the PTSD claims, which do take in excess of a year.

Generally, if a PTSD claim person comes in and can prove that they were in combat, were a prisoner of war, their allegation of the stressor event or their statement of the stressor event, the description, is sufficient pretty much to qualify them for a benefit. But if they cannot prove that this person was in combat or was a prisoner of war, then it is incumbent upon the regional office to go to the VBA units located in the National Records Center to have to find that information. And if you are lucky enough to have been in the Marine Corps, there is an electronic database that can be searched fairly—it is accessible. It can be searched quickly. And turnaround time for those cases can be as little as 1 day. If you are in any of the other services, it essentially requires a manual slog through paper files, and it can take in excess of up to 1 year.

So that was an issue. We did find one database that—it was an unclassified database—one of the regional offices in, I believe, the Chicago area had put together and was using to do their own search prior to making the request to the Records Center, and it was effective. They were able to get the information they needed in 2 to 3 weeks. And they had lent that same database to other regional offices for their searches also. So we had recommended that perhaps VA should think about a comparable system that could be used nationally prior to having to make that request to the Records Center.

In terms of accuracy, our concern was that there was no quality assurance check of the work of the researchers that were going out to gather the information to bring to the RO to make the determination. The information was getting to the RO for the most part. For less than four cases there was error. But we did not know whether that was all the evidence that should have been gathered, the complete history. And there was nobody going in on VA's side to go behind, from a quality assurance standpoint, to do some sampling to make sure that these researchers were not missing key documents that could either substantiate or refute the claim. And we, in fact, cite an example in our report where that was the case for a Vietnam veteran.

Chairman AKAKA. Mr. Rowan?

Mr. ROWAN. Yes, sir. Just a couple of things on that.

One of the things that needs to be understood, PTSD claims can have presumptions, just like the Agent Orange stuff. If you have a particular award or decoration, if you have a particular combat device such as a CIB or a Combat Medical Badge or a Combat Action Ribbon in the Marine Corps and Navy—unfortunately, us guys in the Air Force, we do not have anything like that. Those are automatics. Again, the stressor is presumed. If you have got a Purple Heart or you were a POW and they have got it on your record, we do not have to go into the big song and dance. It is presumed you went through stress.

The problem is with the 70, 80 percent of everybody else, what do I do with the Marine air wing guy who got sent out on missions once a month because he was a Marine and they decided he had a gun and he ought to go out and use it once in a while in Da Nang, for example? Or the truck driver who had to go through places where he was getting shot at and bombed and everything else on a regular basis?

The military changed that, if you noticed, with this new Combat Action Badge to try to expand identifying those people who have been submitted to combat stressors. And I would be curious to see if the Combat Action Badge gets added to the list. I do not know if it has yet. I do not think it has. But it would be interesting to see if it does.

One of the things that does concern me, however, with the new folks in particular with regard to PTSD, we are seeing and hearing of cases where the Department of Defense and the Army and the Marines and wherever are identifying people with personality disorder and not PTSD. And they say, "Well, you have got personality disorder. You are not PTSD, and we do not owe you anything, so go away." And I am concerned about that because that is the old shell game that we have seen going on in earlier days. And so I hope that the Senator might be able to take a look at that sometime.

Chairman AKAKA. Mr. Bertoni, to follow up on your testimony, you noted VA's regional office claims processing structure may not promote efficient operations. You noted that. In your view, what opportunities is VA missing to improve productivity, accuracy, and consistency by maintaining 57 regional offices?

Mr. BERTONI. I think it is our view that VA or GAO really will not know what they are missing until a proper analysis is done to get at those issues, and that is why we have recommended that VA take a strategic look at its organizational structure to see if it has the people, processes, and technology in place to essentially be the most effective operating unit that it can be.

What do we know? I think, as cited today, where VA has taken on the Tiger Teams, the special initiative to go after problematic workloads in the short term, I think they have claimed that there are some positives in terms of productivity, accuracy, the establishment of expertise among staff that constantly work a particular claim, as well as consistency in decisions in terms of entitlement, the dollar amounts allocated, and the ratings percentages.

So if you look at it that way, when you do consolidate, when you do restructure and re-engineer processes, these are some small tactical areas where there have been, I think, some positives.

We also know that where they have not made some really real structural changes in their 57 regional offices, we have the opposite. We have productivity issues. We have inconsistency of decisions and accuracy rate problems. We have variability across the agency.

So we see that as potentially problematic, and our recommendation is that, again, VA needs to really take a more strategic step back, not just a tactical step back and just sort of fight fires, but step back and look if they have the people, processes, and technology in place and how they might reconfigure their organizational structure to be more effective.

We do not have the answer. We just think somebody needs to look.

Chairman AKAKA. Well, thank you very much for that.

Mr. SURRATT. Mr. Chairman, may I comment on that?

Chairman AKAKA. There are other questions that I will submit for the record to you, and I want to thank you for your responses. This will be helpful to me.

But let me conclude this hearing by giving you an opportunity to briefly make any other comments before we adjourn here and ask any of you three whether you want to make any final comments.

Mr. SURRATT. I do, Mr. Chairman. I would like to talk about the question you just asked the representative from GAO. Regarding consolidation, this is the DAV's view: If you are talking about an education claim which does not involve judgment, it is just looking at the person's qualifying service and so forth, or if you are looking at the aspect of pension involving calculations of income, or if you are looking at loan guarantee, those kinds of things can be centralized because there is not much of a need for the veteran to interact with the decisionmaker.

But one of the good things that VA did as a part of its business process re-engineering effort was to establish decision review officers, and this was intended where the veteran could come in and actually talk to a person who would make the decision. And that interaction, face-to-face interaction, between the veteran and the decisionmaker proved to be very good. So if you take the mainstream disability cases and consolidate them, you lose that ability to have the veteran come in and personally appear before someone that makes a decision in his area.

In addition to that, if you look at offices like New York and St. Pete and some of those, bigger is not better. So I would caution the Committee that while consolidation is good in some places and even as short-term measures, Tiger Teams are good—the Tiger Teams, again, are an indication that the system is failing to operate in a routine way. That is a reactive measure. So while that is good, it is necessary, it is not a long-term solution.

I would like to say something about Senator Craig's recommendations that we look at the Veterans' Claims Adjudication Commission recommendations. When that committee reported in 1996 or 1997, virtually all the major recommendations were rejected by the VA Secretary at that time. There was a hearing in the House, at least, and none of the major recommendations like lump sums and putting time limits on claims and other things, none of those things were accepted. They were, in effect, rejected because they all had the same method of solving VA's problems. They would reduce veterans' rights to solve VA's problems. And let me tell you that DAV is opposed to putting time limits on claims, doing anything that seeks to accommodate any inefficiency or lack of capacity in the VA by taking rights away from veterans. And almost all those recommendations did that, and that is why they never got off the ground. And I would hope that we do not spend too much time pulling that report out of the cobwebs and revisiting those bad ideas and attempting to reinvent that broken wheel.

Thank you.

Chairman AKAKA. Thank you very much.

Mr. Rowan?

Mr. ROWAN. Senator, just a couple of things that I did not get a chance to cover in the early part. One of the big problems we are

concerned about is the phone lines for the people calling in and trying to get information. There is a lot of misinformation that has gone on in there, and that has been reported out by a lot of folks. Again, one of the other problems is the system that they have for tracking the claims, where that piece of paper is, is often not kept up-to-date by the various people who handle that piece of paper, therefore making it difficult for the veterans to find out where they are.

And we really believe that we need to see—I keep hearing about this nonadversarial relationship, but it sure does not feel that way, at least from my side of it. And I think that the whole system could do with a lot more interaction between the raters and the VSO service reps of the various organizations. As the claim goes on, if somebody has got a question, they ought to be able to really come to us, and they do not always do that.

There was also something that I saw in Admiral Cooper's statement, I believe it was, about how the raters should be able to identify additional stuff and add it on to it. I have never seen that. I have never seen somebody get something that they did not ask for. And where we get into some of this in particular, and I know in my case as a diabetic, with all of the secondary conditions, nobody says, "Oh, by the way, we noticed that you have high blood pressure so we will throw you another 10 percent on that one." No way. I have never seen a rater do that—ever. Maybe some of my colleagues have a different aspect to that or a different experience of that, but the idea that a rater will give somebody extra, something that they find because they found it in the system and they know they are entitled to it, I would be shocked to hear of that happening.

Chairman AKAKA. Thank you.

Mr. Bertoni?

Mr. BERTONI. Thank you, Mr. Chairman. I would just like to echo one thing relative to productivity. It is our position that VA needs to continually strive to increase productivity and to really leverage IT resources to get there. We have a situation in the Social Security Administration where I spent 15 years looking at that disability program where they are entirely paperless. They are electronic case files. They are paperless. They can shift massive workloads to areas across the country to expedite processing. They can pull up multiple screens and just sift through a few documents that would be 10 inches—10 feet deep in some records—and be able to develop claims. So I think managing the resources that VA has, leveraging their resources through IT investment is somewhere they need to really look.

Second, I think the issue of inconsistency needs to be addressed. We have recommended that they look at their decisionmaking processes at all levels and try to determine what level of variability is acceptable, and where it is not deemed acceptable, to really focus in on making those fixes. And they have made some efforts. They have started. I think, in 2005, they selected three impairments that were subject to inconsistency: knee pain, PTSD, and hearing loss. And in that example, they took ten subject matter experts and reviewed 1,750 claims to try to get at some of the root causes of inconsistency. I think they need to do that across their impairments

to get a good handle on where their vulnerabilities are, and they will need to target their efforts in that area.

Chairman AKAKA. Well, I thank you very much, all of you, for your responses. It will be helpful to us.

This hearing of the Senate Committee on Veterans' Affairs is adjourned.

[Whereupon, at 12 p.m., the Committee was adjourned.]

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