

**ADDRESSING THE BACKLOG: CAN THE  
U.S. DEPARTMENT OF VETERANS AFFAIRS  
MANAGE ONE MILLION CLAIMS?**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND  
MEMORIAL AFFAIRS  
OF THE  
COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED ELEVENTH CONGRESS  
FIRST SESSION

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JUNE 18, 2009  
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**ADDRESSING THE BACKLOG: CAN THE  
U.S. DEPARTMENT OF VETERANS AFFAIRS  
MANAGE ONE MILLION CLAIMS?**

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**THURSDAY, JUNE 18, 2009**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON VETERANS' AFFAIRS,  
SUBCOMMITTEE ON DISABILITY ASSISTANCE  
AND MEMORIAL AFFAIRS,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 6:38 p.m., in Room 334, Cannon House Office Building, Hon. John J. Hall [Chairman of the Subcommittee] presiding.

Present: Representatives Hall, Halvorson and Lamborn.

**OPENING STATEMENT OF CHAIRMAN HALL**

Mr. HALL. Good evening, ladies and gentlemen. The Committee on Veterans' Affairs Disability Assistance and Memorial Affairs Subcommittee hearing on "Addressing the Backlog: Can the U.S. Department of Veterans Affairs (VA) Manage One Million Claims" will now come to order.

I would ask for everyone to rise for the Pledge of Allegiance. Flags are located at both ends of the room.

[Pledge of Allegiance.]

Mr. HALL. Thank you. First of all, I would like to apologize for the lateness of the hearing. I know you have been waiting here for over 4 hours, but there were unusual measures being taken on the floor.

Tonight, some Members felt that we should vote three times on measures that were already passed, including their own amendments, and revote and then reconsider the revote of those measures, and it is for that reason that this hearing is starting now instead of at 2:00 p.m., as scheduled

Having said that, I will tell you that the Members of this Subcommittee convene today to conduct an oversight hearing on the record number of claims facing the VA, now approaching one million. This is a problem that has plagued VA and the veterans it is supposed to serve for years.

Veterans applying for the very benefits that they have earned through sacrifice to our country have been stuck languishing in a growing backlog. Some of these veterans have been waiting months, years, and in some mind-boggling cases, even decades. Is this how America fulfills its promise to our veterans?

When men and women sign up to put on the uniform and defend our country, they sign a contract. We need to make sure that America is living up to our part of that contract. We must have a VA that is an advocate for veterans, not an obstacle; a VA that smoothes the way, not one that puts up roadblocks.

To add perspective before we begin, I want to offer some facts to reflect upon as we take up this discussion. There are approximately 23½ million veterans living in America. Every year, the VA treats roughly 5 million of these brave men and women. Yet, as large as these numbers may seem, every year, 500,000 additional veterans file a claim with the VA so that they can begin receiving treatment and benefits.

Tragically, they are frequently delayed or even denied. They are delayed because of the broken system, denied because paperwork is lost and adherence to legal hurdles and requirements are placed above veterans' needs. Sometimes claims are delayed so long that veterans die or give up fighting the bureaucracy before the claim is processed. And now, as we will explore today, there are nearly one million veterans waiting in limbo as a result.

Make no mistake, this is not a new issue. I, and other Members of this Committee, have been focusing on this intensely because it is so vital to regain the trust of our veterans and provide them the treatment and disability benefits that they were promised.

During the 110th Congress, I convened 14 hearings on disability claims and appeals processing issues. As a result, we were able to successfully pass the Veterans Disability Benefits Claims Modernization Act last October, now Public Law 110-389.

This legislation essentially mandated that the VA modernize its disability claims processing system. This hearing will now mark the fourth time we will be addressing this subject during the 111th Congress. And while we yet again discuss the changes needed, veterans still suffer. They are waiting to have their claims and appeals processed. They are waiting for compensation. They are waiting for medical assistance and rehabilitation. They are waiting to take care of their families. They are waiting for a Nation to show its gratitude. These veterans do not deserve to have their requests for assistance languish in the VA's bureaucracy.

There must be a way to stem this tide. Veterans cannot wait any longer. The VA requires a cultural management change that can only manifest itself if it embraces the very reason it was enacted, which is to serve veterans.

As Chairman of this Subcommittee, I believe we have given VA the tools and the authority it needs to take the necessary steps. Secretary Shinseki has invoked these principles in stepping into the leadership of VA where VA would become an advocate, not an adversary of the veteran.

I am optimistic that today's witnesses can direct us toward this end. Their stories, like so many others, illustrate the need for change.

I certainly hope that we can learn from their experience. I know that the American Legion, Veterans of Foreign Wars (VFW) and Disabled American Veterans (DAV) have worked diligently, along with other veterans service organizations (VSOs), to address the

disjointed practices that exist within VA that have led to this situation.

I am eager to hear from the American Federation of Government Employees (AFGE) and the newly formed Advisory Committee on Disability Compensation, and I place a great deal of hope in your work and progress.

I also look forward to hearing from VA. I know that your claims processing system has improved in some respects. I also know that the one million figure reflects all of your inventory, not just compensation and pension. These facts notwithstanding, Congress, veterans and other stakeholders want to know what is the strategy that VA has for handling a workload approaching one million claims in a 21st century manner.

And finally, I thank the VA and U.S. Department of Defense (DoD) for being here today to update the Committee on its progress in implementing Public Law 110-389, and the formation of the Interagency Program Office, along with President Obama's Joint VA, DoD, Virtual Lifetime Electronic Record (VLER) Initiative, and other information technology (IT) improvements to eliminate the problems inherent in a paper record. And this is something that Ranking Member Lamborn has been in favor of as well.

This is not an impossible task. A consensus exists. The wheels have already been set in motion. It is my hope that VA will transform itself into a modern veteran-focused system that can, in fact, process one million claims accurately and timely; one where veterans and their families no longer have to put their lives on hold while waiting for the much needed benefits they deserve.

I now yield to Ranking Member Lamborn for his opening statement.

[The prepared statement of Chairman Hall appears on p. 49.]

#### **OPENING STATEMENT OF HON. DOUG LAMBORN**

Mr. LAMBORN. Thank you, Mr. Chairman, and thank you for holding this hearing to discuss VA's disabilities claims processing system and its ongoing efforts to improve timeliness and accuracy.

The struggle to overcome the backlog of disability claims has weighed upon the Department for several years now. Despite multiple hearings on this issue, as well as significant increases in VA's budget, workforce and information technology resources, signs of progress are subtle at best.

We have addressed this situation from multiple angles. Funding for VA programs has increased steadily since 1995. There has been a 75-percent increase in the number of full-time claims workers in the last 5 years. We have made a strong push toward modernizing the VA claim system so that it is electronic rather than paper based, as was mentioned earlier.

And we have emphasized and reemphasized the need for training and accountability, yet VA seems to be overwhelmed, and it is well past time for frank assessment of what is going on. VA needs to be candid and forthcoming about what it sees as the problem. Otherwise, we cannot help fix it.

I understand that along with the aforementioned increase in funding, VA is receiving a record number of claims, along with an increased number of complex issues on each claim. While these fac-

tors obviously pose a challenge, I do not see them as insurmountable. I believe that VA has the resources and the authority necessary to adjudicate claims quickly and accurately, and I expect it to do so.

If this is a misperception, I must know why. Every one claim represents an American veteran. Their patience and mine is growing very thin on this issue. If we do not fix the problem now and merely pass it on to a future generation, we will all be very much ashamed and deservedly so.

I am certain everyone here shares my frustration, so let us put the cards on the table and figure out what we can do.

I want to thank the witnesses for their service to our country and for their testimony today and I look forward to our discussion.

Mr. Chairman, I yield back.

[The prepared statement of Congressman Lamborn appears on p. 50.]

Mr. HALL. Thank you, Ranking Member Lamborn.

I would like to remind all of our panelists that your complete written records have already been made a part of our hearing record. Please feel free to limit your remarks so that we may have sufficient time to follow up after all the time you have been waiting. We do not need to go longer than necessary because your statements are already submitted.

And on our first panel, we would like to welcome Mr. Ian de Planque. Is that the correct pronunciation, sir? Assistant Director for the Rehabilitation Commission of the American Legion; Mr. David Bohan, Veteran from Gladstone, Oregon; Mr. Robert Jackson, Assistant Director, National Legislative Service for Veterans of Foreign Wars of the United States; Mr. Kerry Baker, the Assistant National Legislative Director for the Disabled American Veterans; and Ms. Rachel Natelson—is that correct—Natelson—Ms. Rachel Natelson, Legal Advisor for Service Women’s Action Network (SWAN).

Welcome and, Mr. de Planque, you are now recognized for 5 minutes.

**STATEMENTS OF IAN DE PLANQUE, ASSISTANT DIRECTOR, VETERANS AFFAIRS AND REHABILITATION COMMISSION, AMERICAN LEGION; DAVID BOHAN, GLADSTONE, OR (GULF WAR VETERAN); ROBERT JACKSON, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES; KERRY BAKER, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; AND RACHEL NATELSON, ESQ., LEGAL ADVISOR, SERVICE WOMEN’S ACTION NETWORK**

**STATEMENT OF IAN DE PLANQUE**

Mr. DE PLANQUE. Good evening, Mr. Chairman, Ranking Member Lamborn, and the Subcommittee. On behalf of the American Legion, I would like to thank you for providing us with the opportunity to offer testimony regarding the looming backlog and what can be done to handle the volume as it stands, as well as to reduce or to improve the situation for veterans to come.

It is often said, and I think this may be particularly relevant today, that the definition of insanity is to repeat the same action over and over again expecting a different result. We are at a point in the claims process in the VA, where simply increasing the volume of effort with the wrong tools in the existing systems can't be a solution that will improve the current state of affairs. We need to look at the system with fresh eyes and determine how a new outlook can help VA with the daunting task of managing a backlog such as this.

This is not to say that an addition of workforce is not beneficial. Indeed, they have increased the workforce and that is a potential benefit. However, merely having more people making the same mistakes over and over again does not eliminate the problem of remands, appeals and cases that continue to bounce back and forth and get lost in the system.

As we mentioned in the past, the way VA currently counts their workload does not encourage accuracy; it encourages volume. If a job is worth doing, it is worth doing right. Do the job right the first time. To count work credit is the same whether it is performed properly or whether details are overlooked, encourages corners to be cut when the pressure is on an employee.

In the past, it has been proposed that VA count work credit when a claim reaches a final decision in a manner that the encouragement will be to perform every aspect of the claim correctly, since appeals over missed technical details, which make up a large percentage of the claims returned from both the court and the Board of Appeals, will only hamper the process and create mere lengthy delays in the claims process.

To examine the figures, as I stated, from both the Board of Veterans' Appeals (BVA) and the Court of Appeals for Veterans Claims (CAVC), it is pertinent to note that the vast number of the claims remanded through the system are for simple error, procedure, oversight, things that could be avoided with accountability and attention to detail, lack of proper examination, lack of fulfillment of the duty to assist veterans, even simple errors in letters sent to veterans all can be corrected if the credit were counted for doing the job right, not simply for shuffling the paper on to the next desk.

All too often, the claims on appeal are further delayed as they bounce back and forth between the Board of Veterans' Appeals and the Appeals Management Center (AMC) because the terms of the remands are not followed. Simply doing it right the first time can alleviate this and get the claims completed and out of the system.

The development of claims presents another opportunity for improvement. Many claims are overdeveloped when the simple facts—the grant of service-connection are already present. Needless exams and searches for extra records continue to drag out the process.

Furthermore, regarding development, the amendment of the understanding of section 1154, which has been discussed in other legislation, can streamline and reduce a great deal of the burden of additional development on the VA, a haste in the process of decision in the claims of veterans who are claiming incidents in combat zones.

These are not unique to the current situation. Diabetes claims due to exposure to Agent Orange are often needlessly developed

when the presumptions of exposure in connection have already been established and the veterans have already submitted private medical records indicating the severity of their condition is sufficient to rate their claims. They are sent for redundant VA exam, rather than closing out a claim early when they have already been given all the tools they need to grant the claim.

One further area that, has received attention of late and has been a sign of improvement, though we must continue to push for improvement of late, but we must continue to push for improvement, is the ability to accurately and rapidly obtain the requisite records needed to adjudicate a claim. Confusion over locations of veterans' military records, lack of ability to communicate between different agencies and to provide rapid access to the necessary information, is something that is improving and can continue to be improved and must be a focus of attempting to overhaul the system.

Also present today is a veteran who can speak to this very problem. In the course of compiling a three-part story for *The American Legion Magazine*, we were made aware of Mr. David Bohan, who is seated next to me, a veteran of the first Gulf War, who has first-hand experience of just how frustrating the process can be. He is here today to tell his story in the hopes that the insight from the perspective of a veteran on the inside can help us come to a better understanding of where the fail points are and where we should work to improve the efficiency of the process. I hope you listen to his compelling story.

I thank you on behalf of the American Legion. And as always, we stand ready to answer any questions you may have.

[The prepared statement of Mr. de Planque appears on p. 50.]

Mr. HALL. Mr. Bohan, you are now recognized for 5 minutes.

#### STATEMENT OF DAVID BOHAN

Mr. BOHAN. Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to appear today on behalf of American veterans, including the veterans of the first Gulf War with whom I served. The topic which you are addressing today, the VA's ability to handle the claims backlog, is very important to all of us who serve.

I am David Bohan. I joined the U.S. Army right out of high school in 1987 and served with the 2nd Battalion of the 16th Infantry Division in the Gulf War. As some of you may know from the current series in *The American Legion Magazine*, our outfit was first across the breach in the ground war. My platoon refueled M-1 tanks on the frontlines. We hauled tank trucks full of fuel across the desert to the tanks, despite cluster mines and Scud missile attacks. You don't forget the feelings you get when the Iraqi Army sends a Scud into your camp. I received the bronze star for my noteworthy actions.

I served 6 years and left Fort Riley, Kansas, the moment my discharge was completed in December 1992. Like thousands of other Gulf War One veterans, I was not offered any transition assistance programs when I was discharged. No one suggested that I get copies of records of any medical treatment I received in the military. There was no mention of VA benefits of any kind, whether you are

talking about hospital care or counseling for Post-traumatic stress disorder (PTSD). All I wanted to do was get home to Oregon as quickly as possible. This has continued to cause problems for me and my ability to get VA benefits.

I spent most of the next 15 years trying to erase my memories of the war with alcohol. These were terrible years. Nothing worked. I had jobs at a variety of freight companies. I was married and divorced. Most of all, I drank. This was very hard for my family, but my mother and father stood by me. I didn't realize it at the time, but I had severe Post-traumatic stress disorder.

After an automobile accident involving a police officer last year, luckily no one was injured, I realized I had to stop drinking. I checked myself into a Roseburg, Oregon VA Medical Center inpatient alcohol treatment program. I've been clean and sober ever since and I am managing an apartment complex for my father. I am lucky. Many veterans do not have the fantastic family support that I have. I don't know where I would be today without them.

A counselor at the VA in Roseburg suggested I pursue a claim for my PTSD, for injuries to my left foot during the time I was stationed at Fort Riley, Kansas, and recommended I contact the American Legion for help.

The VA system is confusing, overwhelming and is not at all friendly to veterans. So many of the people at VA are not—oh, I am sorry—so many of the people at VA are not veterans and don't understand what we are going through. You end up feeling like some of them care more about their rules and regulations and paperwork than they care about the veterans.

We veterans don't have any idea where this piece of paper or that record is after all of the time. Regarding military records, we veterans don't have any idea where our records are kept, and apparently, the military doesn't know either. I was up late last night digging through boxes, looking for records to prove I was in the Army, that I was in the Gulf War, and that I had been in combat and that I had all of the necessary stressors to qualify for VA assistance. The memories from going through all of those materials from my Army days was very painful.

With the help of American Legion Service Officer, Gregg Demarais, I received a PTS rating from the VA. But the issues with my foot have not yet been addressed. My medical records from Fort Riley are missing. I spent hours on the telephone, I have sent faxes. I have even sent e-mails. But after months of trying, no one can find my records.

The hospital at Fort Riley says they do not have the records of the surgeries on my foot. I have contacted the National Personnel Records Center in St. Louis many, many times, but I still do not have the records of multiple surgeries on my foot.

Until I can obtain those records and present them to VA, I cannot pursue the rest of my case. This is very frustrating and very time consuming.

I understand why so many people just give up. We need to better assist veterans in need. There needs to be improvement in the communication between VA and other agencies in tracking down records. Whether it is through technology or something else, they need to be able to do it faster and more accurately so that they can

avoid situations that cause needless delays by sending requests back and forth, over and over again, with no answers to provide to veterans.

The system can work, however. Now that I am finally in the VA health care system, some good things have happened. Doctors operated on my arm and repaired nerve damage and restored feelings to my fingers. I am enrolling in college right now and I am going to pursue a business degree. I also try and help my fellow veterans get enrolled in the VA system and, where they need it, get into a drug and alcohol treatment program. I am happy to use my experiences to help, but I see many veterans go through the same frustrations that I have gone through.

I am proud of my service and I am grateful for the assistance that I have received. But there has to be a way to make this easier for all of us.

Thank you again for the opportunity to testify today. I look forward to any questions you may have.

[The prepared statement of Mr. Bohan appears on p. 55.]

Mr. HALL. Thank you. Mr. Bohan, and thank you for your service to this country.

Mr. Jackson, you are now recognized for 5 minutes.

#### **STATEMENT OF ROBERT JACKSON**

Mr. JACKSON. Mr. Chairman, Ranking Member Lamborn, Members of the Subcommittee, thank you for the opportunity to provide testimony before this Subcommittee on the VA claims processing system. The 1.6 million men and women of the Veterans of Foreign War appreciate the voice you give them at these important hearings.

Within 2 years of the conclusion of World War II, more than 16 million servicemen and women were released from active duty. Millions filed claims with the VA for compensation. Why wasn't the VA overwhelmed?

Perhaps it is time to recognize that better production and timeliness levels achieved by the VA in the 1950s and 1960s may very well have been accomplished because there was less attention paid to procedural rights and that the VA may have exhibited a rather cavalier attitude when it came to interpreting the law and its own regulations.

Whether you agree with either view of history, it is clear, the VA was able to make claim decisions quickly. Reexaminations were frequent and allowed VA to increase or reduce evaluations as disabilities worsened or improved.

Today, claims development takes longer. Quite simply, Congress recognized that past procedures and practices by the VA were not always veteran-friendly, did not adequately tell veterans what was needed and would often lead to decision based on less than all of the available evidence.

Decisions are longer because Congress decided that veterans should be told what evidence was considered and why benefits were denied or granted. Appeals take longer to resolve because of increased evidentiary and notice requirements, the introduction of additional review level and decision review officers in the need to satisfy all judicial mandates.

The fact is, there is nothing inherently wrong with any of these changes. Those decisions were all needed to fix recognized problems and abuses.

Having said that, how do you devise a system that allows VA to make decisions rapidly without increasing mistakes, is not costly either to the veteran or the American people and continues to provide veterans with the protections that have been built into the law over the past 60 years?

Jerry Manar, who is the VFW's Deputy Director of National Veterans Service, with assistance from the VFW staff and VA alumni, has developed a process that incorporates the best practices of a post-World War II claim system to make expedited provisional decisions based on existing records.

This proposal, which calls for the creation of a test program entitled "The Provisional Claims Processing Program," would grant benefits on limited information quickly, but with quality.

Limited to servicemembers leaving the Armed Forces or recently discharged veterans, evaluations would be based on existing evidence, understanding that benefits for some conditions may be denied when further development would enable VA to grant service-connection under existing law.

Conversely, it is also understood that benefits, based on existing evidence, may not be service connected when all evidence is eventually developed and considered. Consequently, a grant of benefits for any disability is not a grant of service-connection entitling the veteran to protections afforded by existing law and regulation.

Under this program, full development, a VA examination and a new decision would be required 4 years after the initial provisional rating. Provisional decisions made under this program would have no precedent value and service-connection for all disabilities, including any new condition the veteran chooses to place into contention, would be made during the review at the 4-year point.

This program would restore the rapid delivery of benefits based on current rating standards, while still maintaining veterans' rights under a system of protections carefully crafted by Congress over the past 60 years. It should dramatically increase decisions on original claims while allowing the bulk of VA's field staff to concentrate on resolving the existing backlog.

More importantly, this program would provide a win for new veterans. In exchange for agreeing to wait for a final decision, they would receive a provisional decision and benefits in a matter of weeks instead of more than 6 months. If properly structured, the VA could fulfill the promise it made with the Benefits Delivery at Discharge (BDD) program that a decision could be made prior to discharge.

Further, veterans have the right to choose which program they participate in after they know what the provisional decision awards. If they disagree with the provisional decision, they need not accept it. And, since they know that the current program may take 6 months or more to produce a decision, their conscious choice to accept the wait should reduce the number of complaints and consequent pressure on Congress.

Mr. Chairman, I will be more than happy to provide you and the Members of the Committee with this updated copy of the proposal.

This concludes my statement. I would be happy to respond to any questions you may have.

[The prepared statement of Mr. Jackson appears on p. 56.]

Mr. HALL. Thank you, Mr. Jackson.

Mr. Baker, welcome, and you are recognized for 5 minutes.

#### **STATEMENT OF KERRY BAKER**

Mr. BAKER. Thank you, Mr. Chairman and Ranking Member Lamborn. I am glad to be here today on behalf of the DAV.

As you know, the claims process is extremely complex and lengthy. The VA estimates that it will decide over 940,000 claims in 2009. I suspect that number will be closer to one million. This is encouraging since it is close to 200,000 more claims than it decided just 2 years ago, signifying that VA is certainly utilizing the additional staffing provided by Congress over that same period.

What is discouraging is that VA may actually receive just as many new claims as it decides this year, which is also close to 200,000 more than just a couple of years ago.

Short of growing VA's workforce indefinitely, there are no simple solutions to this problem. The DAV, nonetheless, believes it has some solutions.

To support that belief we have presented this Committee with DAV's 21st Century claims process proposal, which is intended to simplify the process while preserving resources and reducing expenditures.

Our proposal begins with the initial stages of the claims process and continues through the entire appellate process. Our recommendations are aimed at making efficient, a rather inefficient process, without sacrificing a single earned benefit.

They include, one, amending 38 U.S. Code, section 5103A(b) to indicate that VA will assist a claimant in developing private medical records when such assistance is requested by the claimant on a form prescribed by the Secretary; two, amending sections 5103 and 5103A to allow the VA to sua sponte, or on its own, waive all Veterans' Claims Assistance Act (VCAA) requirements when it determines that the evidence of record is sufficient to award all benefits sought; amending section 51—I am sorry—number three, amending section 5104(a) as well as section 3.2600 in title 38 of the regulations so the VA could issue appeal election letters at the same time as the initial rating decision; four, amend section 7105 to decrease the period in which a VA claimant may submit a timely notice of disagreement to the VA following the issuance of a VA rating decision from 1 year to 6 months but with the provisions added that you could extend for an additional 6 months without showing good cause and that you could equitably toll it if you are incapacitated mentally or physically at the end of that period. Those two issues are not part of the law at the current moment.

Number five, amend section 7104 in a manner that would specifically incorporate an automatic waiver of regional office (RO) jurisdiction for any evidence received by the VA, to include the Board, after an appeal has been certified to the Board, following submission of a VA Form 9, unless the appellant or his or her representative expressly chooses not to waive such jurisdiction.

These and other suggested changes could result in reduced pre-appellate stage processing times between 30 to 90 days and as high as a 3-year reduction for certain post-remand appellate cases.

Our written testimony contains many more details regarding these suggestions, to include how they could be incorporated into a new claims process further supported by a new electronic record and image scanning center.

Nonetheless, out of the three phases of our proposal, the legislative changes that I just mentioned must be completed now. They will result in immediate progress over the growing claims workload and will further pave the way for future improvements.

In closing, the VA will never be able to maximize its recent increases in staffing without making its processes more efficient. If such changes are made, the VA will see vast improvements in its entire claims process that are essential to achieving the broader goals of prompt and accurate decisions on claims.

Likewise, only then will the VA be able to incorporate training, quality assurance and accountability programs demanded by the veterans' community.

Mr. Chairman, it has been an honor to appear before you today and I look forward to any questions you may have.

[The prepared statement of Mr. Baker appears on p. 59.]

Mr. HALL. Thank you, Mr. Baker.

And Ms. Natelson, you are now recognized for 5 minutes.

#### **STATEMENT OF RACHEL NATELSON, ESQ.**

Ms. NATELSON. Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the views of the Service Women's Action Network concerning the rising backlog of VA benefits claims.

Although the benefits application process is labor intensive and emotionally taxing for all claimants, women veteran face particular challenges in obtaining disability compensation from the VA.

To begin, studies indicate an institutional bias in favor of claimants with combat experience, an advantage which disproportionately favors men. Not only do claim processors fail to understand the degree to which women are effectively, if not nominally, serving in combat positions, but they also fail to appreciate the extent to which servicemembers in non-combat occupations and support roles are exposed to traumatic events.

Among the most pervasive stressors experienced by military women are incidents of sexual assault and harassment. The prevalence of sexual assault in the military is hardly news, and has been the subject of a number of recent Congressional hearings and Pentagon reports. By some accounts, nearly a third of female veterans report episodes of sexual assault during military service, while 71 to 90 percent report experiences of sexual harassment.

These experiences are closely associated with PTSD in a variety of studies. In fact, military sexual assault is a stronger predictor of PTSD among women veterans than combat history. Likewise, studies indicate that sexual harassment causes the same rates of PTSD in women as combat does in men.

In spite of this correlation, the VA grants benefits to a significantly smaller percentage of female than male PTSD claimants.

This disparity stems largely from the difficulties of substantiating experiences of military sexual assault, especially in a combat arena.

Under military regulations, for example, sexual harassment investigations are only retained on file for 2 years from the close of each case. While criminal investigations of sexual assault are better documented, 80 percent of assault victims fail to report the offense and over 20 percent of those who do file reports opt for a restricted mode that precludes official investigation.

Although training and reference materials for raters provide a great deal of guidance on how combat medals and commendations may be used to support PTSD claims, they make little mention of how to address the challenges of documenting military sexual assault as an in-service stressor. As a result, reviewers tend to rely on a limited group of behavioral changes in determining the validity of military sexual trauma (MST) claims, often denying them if they fail to conform to a rigid set of expectations. Many raters, for example, deny MST claims from veterans with distinguished service records based on the assumption that assault victims invariably decline in their job performance.

Perhaps most frustrating is the tendency of claim processors to ignore or second guess the evaluations of treating physicians within the VA health system, particularly with respect to mental illness. Despite the fact that the majority of my own clients have submitted MST diagnoses from VA counselors, most have received decisions indicating that they have failed to establish the condition, much less connect it to their service history.

By refusing to recognize the soundness of VA medical provider reports, reviewers both protract the application timeline and compromise the healing process for claimants.

The Institute of Medicine (IOM) Committee on Veterans' Compensation, a panel of experts convened by the VA to examine PTSD compensation issues, has proposed a number of sound recommendations based on its research. The Committee has suggested that the agency collect gender-specific data on MST claim decisions, develop additional MST-related reference material for raters, and incorporate training and testing on MST claims into its rater certification program. The VA should implement these proposals in order to sensitize claim reviewers to the needs of assault and harassment victims.

In light of plans to create a comprehensive electronic records system for military personnel, the Department of Defense and the VA have an unusual opportunity to address the problem of documenting in-service incidents of sexual assault and harassment.

In order to ensure that records of harassment and assault complaints may be accessed in support of VA claims, the military should incorporate, upon request, such investigative files into the proposed Joint Virtual Lifetime Electronic Record. While such a step would not address the issue of under-reporting, it would at least improve the accessibility of existing records.

The VA should also establish a presumption of soundness for the diagnoses of its own treating physicians and counselors. Claim reviewers should not have the authority to second-guess evaluations by agency medical professionals or to discount VA treatment

records in favor of one-time Compensation and Pension (C&P) exam results.

According to the IOM Committee, C&P examiners have reported particular pressure to limit the time they devote to PTSD and MST evaluations, sometimes to as little as 20 minutes.

SWAN also supports H.R. 952, which would create a statutory presumption of service-connection for Operation Enduring Freedom and Operation Iraqi Freedom (OEF/OIF) veterans with PTSD and Traumatic Brain Injury (TBI). However, since statistics suggest that servicewomen are more likely to be sexually assaulted outside of combat zones than during deployment, we would propose extending such a presumption to all veterans who suffer from a traumatic event while in service.

According to the Pentagon's 2008 Sexual Assault Prevention and Response Office report, fewer than 10 percent of the assault incidents reported last year occurred in combat zones.

Thanks very much for your attention. I would be happy to answer any questions you might have.

[The prepared statement of Ms. Natelson appears on p. 63.]

Mr. HALL. Thank you, Ms. Natelson.

I will recognize myself for a round of questions.

Mr. de Planque, there have been some concerns and misperceptions about the role of service-connection in being able to access VA health care. If a veteran is not service connected, then how likely is it that he or she will get turned down for VA health care treatment? Should veterans with claims pending adjudication be eligible for VA health care? And should mental health counseling be offered to all veterans enduring the stress with the VA disability claims processing system?

Mr. DE PLANQUE. In the sense of that, Mr. Chairman, it is actually, it is a slightly complicated issue and there have been a number of things that have changed, although they are attempting to bring them back forward.

In 2003, when the category 8 veterans were shut out of VA from treatment, it made it very difficult for them to receive treatment for medical conditions, and that is being phased back in.

However, veterans who are serving now in the present conflict are entitled to 5 years of VA health care after they demobilize, after they are discharged from the military, and it will run out after that point and it will—they will not be able to get health care for the conditions that are not service connected. They will not be able to get health care for the condition that are not service connected.

With regards to mental health care, in many of the VA outreach clinics, they are not in a position to be turning people away from trying to get the care they need, but they are not always capable of getting the full level of care that particularly severe cases of mental disorders which can arise.

It is possible to get some degree of health care within certain circumstances when you fall into certain categories as a veteran, but in terms of an all-inclusive group of veterans being able to receive health care if they are not service connected for a condition, then that is not the case.

Mr. HALL. I would ask you one more question, if I may, which is that some of the solutions highlighted in your testimony were already considered and enacted by Congress in Public Law 110-389. Do you think these provisions are sufficient or are there other legislative changes the Legion would like to see Congress enact?

Mr. DE PLANQUE. In some senses with the changes which have been enacted, they have all been enacted very recently and we are seeing promising signing, for example, with what VA is beginning to do with improving electronic communication and making forays into the IT solutions. They are showing promising signs, but it is still very, very early to determine how overall effective those will be.

As I have stated before, it would be beneficial to work with the changes that are creating improvements, but we don't want to just change the set of tools that continue to operate within the same system. If you are continuing to make the same problems but doing it electronically, that doesn't make it any better than if you are making the same mistakes and doing them on paper.

In terms of legislative solutions which could be brought forward, already up for consideration are as we mentioned in our testimony, the changes to the section 1154, which covers veterans, currently covers veterans who have engaged in combat in proving the occurrence of incidents that are consistent with combat and the expansion of it to combat zones, as we recognize the nonlinear battlefield to modern warfare and that the documentation of all such incidents for all soldiers, not just soldiers who have infantry cross rifles and can get a combat infantry badge, not just soldiers who are wounded and receive a purple heart, which makes things obvious, but all the soldiers who are deployed to combat zones and experience these incidents, which are sometimes difficult to document.

So continuing to work toward that legislation and pass solutions on that front would be a great help in reducing a lot of the workload on VA because it would reduce a lot of their burden for over-developing. They would be able to grant the one point of a case and move on, and they wouldn't spend a lot of time needlessly developing.

Mr. HALL. Thank you, sir.

Mr. Bohan, once again, thank you for your testimony and your service, and it sounds like nobody from VA mentioned to you that you could file a claim, even though you were in treatment for over 15 years before you did file. Would your experience with this process have been easier if you had filed a claim right away?

Mr. BOHAN. Mr. Chairman, not knowing with the technology back then, at that point, I am assuming there would be road blocks also, as well, but that is hard to say because I did not file back at that time.

Mr. HALL. Fair enough. Thank you.

Mr. Jackson, I am interested in the provisional claims processing proposal that you mentioned in your testimony. Would you elaborate on how it would work practically by walking us quickly through the first steps of finality for a veteran who might file a claim under this system?

Mr. JACKSON. My pleasure, Mr. Chairman. What this does is it essentially is not a, it is not a permanent fix. What it does is bides

times. What you are doing, you are allowing existing information to be used for a provisional rating. The veteran, then, if he or she decides that that rating is not what they think is sufficient, then they can continue the process that they normally would.

The goal of the provisional proposal that Jerry has created is to get claims, new claims through the system quickly, allowing the VA workforce to work on the backlog. It is something that is not going to be a permanent fix, but is something that could certainly alleviate some of the workload.

Mr. HALL. Thank you very much, Mr. Jackson.

I will now yield to Ranking Member Lamborn for a round of questions.

Mr. LAMBORN. Yeah, thank you, Mr. Chairman.

And you all have been very helpful and have had interesting things to offer today. But following up on the question that was just asked by the Chairman on the provisional suggestion, what recourse would a veteran have under this program if their condition worsens and they wanted an increased rating between the time they were initially rated and the final rating 4 years later?

Mr. JACKSON. The way the proposal is written currently, that once the veteran received the provisional rating, they are going to have wait for the 4-year point, so they will get the provisional rating. They either accept it. If they accept it, then they do a full development and an evaluation at the 4-year point, and if it is determined that there is more needed, then obviously that will come out at that time.

Conversely, if it turns out that the evidence shows that perhaps the provisional rating was a little bit high, then that is going to bear out as well.

But once the veteran decides, the way the proposal is written, once the veteran decides to take the provisional rating, they will have to wait until the 4-year point to have it changed. And it does not stop the veteran. Let us say the injury that they have received, the initial injury becomes worse. It does not stop that veteran from being able to show that the injury has worsened or the disease has worsened in that 4-year period of time.

Mr. LAMBORN. Now, conversely, could they see their compensation reduced and go in the other direction at the end of the 4 years?

Mr. JACKSON. Well, that would always—yeah, that would always be a possibility. It would be a possibility that the initial rating might have been too high and then it would have to be lowered, obviously, with the full developmental workup, the evaluation.

So it is conceivable that the veteran could see the benefit lessen.

Mr. LAMBORN. Okay. Thank you.

And for Mr. de Planque, I hope I said that correctly, you discussed at length the problems with brokering claims and how the quality of these claims is lacking. What would you propose the VA do to improve the quality?

Mr. DE PLANQUE. Thank you, Ranking Member Lamborn. And it's de Planque or de Planque. Both get used.

Some of the problems that we have seen in brokering, and these are all anecdotal with the American Legion and with National Veterans Legal Services Program (NVLSP). We travel and do reviews of regional offices and you can see a claim that gets brokered out

that has, say, four issues and they take one small issue that is in it, rate that and defer the other three issues and send it back to the original office. Well, they get a work credit for where it is—has been brokered, but it has been sent back and the work isn't actually getting done.

In some cases it is, and the idea of pushing a workload to places that can accept it better is not in theory a bad thing, but it needs to be executed well. And one of the things that I spoke to in my oral remarks is the working toward a system where you are counting credit, where you are working credit for cases that have been done properly, cases that have been done completely, cases where it was done right the first time because that saves the VA from having to continue to process cases that are bouncing back and forth in the system.

And so that is what I would say. Go to that principle of regardless of where you are sending the claim, get it done right the first time and it won't bounce around in the system.

Mr. LAMBORN. And Mr. de Planque, how specifically would the VA reward the decision-making that is done right the first time, which is, I think, what we are all after?

Mr. DE PLANQUE. That is correct. It was proposed in the past. I know there was a proposal at one point from NVLSP, but there have been other things that are similar, to change the way that they count work credit. And in the short term, obviously, there would be a certain amount of upheaval with this, and it would be difficult to measure as you change to any sort of new system.

But where work credit would not be granted until the case was finally decided and, therefore, if you are just passing along a case that is going to get remanded, that is going to have missing details and get appealed, you are not setting yourself up for success because you are setting up a case that is going to take a long time to give you work credit.

Whereas, if you do the details right and make it impossible to be remanded because there aren't details such as that, then you get the work credit faster because it is counted when the claim is finally decided.

Mr. LAMBORN. Okay. Thank you. Thank you all for being here and, like the Chairman said, thank you for your patience as well.

Mr. HALL. Thank you, Mr. Lamborn.

If I may, I would just like to ask Mr. Baker a question.

In listening to your testimony, I am reminded that over a year ago at a hearing we held on artificial intelligence and Dr. Randy Miller, Chair of Biomedical Bio-Informatics at Vanderbilt University, made similar observations about reducing the days to process claims by using clinical informatics, which is what your imaging scanning center would seem to do.

Have you also considered the idea that the scanned image should also be converted into a standardized electronically processable format? What is the feasibility of implementing the proposed centralized information system that you mentioned in your testimony?

Mr. BAKER. Well, Mr. Chairman, if you are talking about, are we suggesting if you use something like an image scanning center, would you do more than just copy the document, would you have a workable format that could provide some form of a database and

searchable tool, that would absolutely be preferable. It would allow people to search the claims file much, much easier than sitting there having to read, you know, a thousand pages on the computer.

The feasibility of that, I am afraid I just, I don't have the expertise. I don't know where VA is in their IT development, you know, if they could do something like that.

As I understand it, there are a lot of companies out there and processes out there that can capture that sort of data. I just don't know where VA is with that technology.

Mr. HALL. Thank you. Your plan also calls for a reduction in time from 1 year to 180 days of the time that a veteran can make an appeal, but then allows them the opportunity to ask for an extension. Other insurance programs have restrictions that do not allow an appeal after the due date.

Are there circumstances under which you could foresee a case being closed and appeal disallowed, and should there be a limitation on the number of times that a veteran can appeal the same condition without new evidence?

Mr. BAKER. I can see where one could get closed and disallowed if they allowed the 6 months to run out and they did not request an extension and they couldn't show any cause as to why their appeal should be equitably tolled. That would be no different than the appeal running in excess of the 1-year point right now. Only, right now they cannot request an extension and they cannot be equitably tolled. The courts have stopped short of addressing that issue with the appellate period.

So you know, we realized that the 6-month issue may not be met with a lot of favoritism up front, but when you are providing a couple of extra benefits that a lot of people are going without right now, which is the extensive and equitable tolling, we think that is more than fair, it is still 6 months we are talking about. The average time it takes VA to get a notice of disagreement is 41 days. Ninety-two percent of all appeals were received in the first 6 months.

So you know, we think in the long run the system will be much better with that. But you had a second part of that question.

Mr. HALL. Should there be a limitation on the number of times a veteran can appeal the same condition without new evidence?

Mr. BAKER. Well, VA has a process now. A lot of people get it confused. If you reapply for the same thing you have been denied for and you don't have any new evidence, what you normally get is, what you will get is a decision saying you haven't presented new evidence, your claim is not reopened.

However, that issue in and of itself can be appealed all the way up to the courts. So it is in effect a claim in the system. The claim is an appeal to reopen the claim. During the appellate process, that could be decided in favor of the veteran, and it goes all the way back down in the beginning just to be reopened and the actual issue decided. So I mean, there is some convoluted there.

How do you go about, you know, rectifying that? I wouldn't suggest that you simply not allow the veteran to reopen anything without new evidence. I mean, there's a fine line where you start taking away rights at some point.

But if they had no evidence whatsoever, well, that is kind of what they do now. You just can appeal that decision just like you could appeal anything else.

Mr. HALL. Thank you very much.

Ms. Natelson, thank you first of all for your support of H.R. 952. The information that you have presented on women veterans corroborates what we have heard before at our hearings.

When the Department of Defense appeared at one of these hearings, they described their PTSD approach as relying on the opinion of the medical examiner, which is what it seems you are suggesting. So if VA, like DoD, instituted a disability evaluation system that relied more on medical opinions and psychometric testing results, do you think that this change would be reliable enough for the establishment of compensation?

Ms. NATELSON. Well, I think that there is value in allowing, you know, a VA professional who has a treating relationship with the claimant to have their word, you know, taken at face value. Presumably since these are VA medical professionals, there has been some sort of vetting and some sort of determination that their credentials are appropriate.

So it doesn't make very much sense to me that if somebody has been in a treating relationship with a medical professional or a counselor employed by the VA on the Veterans Health Administration side of the equation, that you know, that somebody on the benefits side of the equation should somehow decide that, you know, that person's word isn't good enough.

Mr. HALL. Thank you.

Last, would you please elaborate on your recommendation to incorporate upon request investigative files of harassment and sexual assault into the Joint Virtual Lifetime Electronic Record? How would this help women veterans?

Ms. NATELSON. Well, an enormous problem for women with military sexual trauma in, you know, establishing their in-service stressor, is that it is so hard to obtain those documents.

As I say, there are actual military policies, especially with harassment as opposed to an actual criminal case of assault that prevent records from being even kept on file for more than a couple of years. So if somehow the documents that do exist could be memorialized and kept within the system, you know, for as long as possible so that if the claimant elected to, they could use that in support of their claim, I think that, you know, that would be very helpful toward establishing that, you know, there was an in-service stressor.

Mr. HALL. Thank you, Ms. Natelson.

Thank you to all of our panelists for your service to our country, for your service to our veterans and for coming here and your patience and your testimony today.

And you are now excused to enjoy the rest of your evening. And I will give you a minute to move and then ask our second panel to join us.

Our second panel witnesses include Lieutenant James Terry Scott, Chairman of the Advisory Committee on Disability Compensation for the U.S. Department of Veterans Affairs; Mr. Michael Ratajczak—is that the correct pronunciation?

Mr. RATAJCZAK. That's fine.

Mr. HALL. Decision Review Officer of the Cleveland Regional VA, testifying on behalf of the American Federation of Government Employees.

Welcome to both of you. Your complete written statements are a part of the hearing records, so feel free to abridge or improvise.

Lieutenant General Scott, you are now recognized for 5 minutes.

**STATEMENT OF LIEUTENANT GENERAL JAMES TERRY SCOTT, USA (RET.), CHAIRMAN, ADVISORY COMMITTEE ON DISABILITY COMPENSATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; MICHAEL RATAJCZAK, DECISION REVIEW OFFICER, VETERANS AFFAIRS CLEVELAND REGIONAL OFFICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS, ON BEHALF OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

**STATEMENT OF LIEUTENANT GENERAL  
JAMES TERRY SCOTT, USA (RET.)**

General SCOTT. Chairman Hall, Ranking Member Lamborn, it is my pleasure to be with you today representing the Advisory Committee on Disability Compensation. This Committee is chartered by the Secretary of Veterans Affairs under the provisions of 38 U.S.C. § 546 and in compliance with Public Law 110-389 to advise the Secretary with respect to the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities.

Our charter is to assemble and review relevant information relating to the needs of veterans with disabilities, provide information relating to the character of disabilities arising from service in the Armed Forces, provide an on-going assessment of the effectiveness of the VA's schedule for rating disabilities, and provide ongoing advice on the most appropriate means of responding to the needs of veterans relating to disability compensation in the future.

The Committee has met eight times and is drafting an interim report to the Secretary that addresses our efforts to date. Our focus is in three areas of disability compensation: The requirements and methodology for reviewing and updating the Veterans Administration Schedule for Rating Disabilities (VASRD), the rating schedule; the adequacy and sequencing of transition compensation and procedures for servicemembers as they transition to veteran status with special emphasis on the seriously ill or wounded servicemembers; and the disability compensation for non-economic loss, often referred to as quality of life.

Your letter asked me to present my views on the issues surrounding the VA's disability claims processing system. The Committee's charter and efforts to date have addressed the processing system only in the sense that an updated and clarified Rating Schedule will enable examining, rating and reviewing officials to make a more accurate and timely assessment of a veteran's disability and its effect on his or her average earnings loss. An updated and clarified Rating Schedule should improve first-time accuracy and reduce the number of appeals and the backlog that appeals create.

I might also add, Mr. Chairman, that I was Chairman of the Veteran Disability Benefits Commission which met from 2004 to 2007 and provided a 600-page report with 112 recommendations to the President and the Congress and so I feel like I can discuss some of these other things that this particular Committee I am chairing now is not responsible for, if you want to expand into that area of the backlog.

There has been a lot of recent studies, the Veterans Disability Benefits Commission that I chaired, the Institute of Medicine, the General Accounting Office and others have consistently recommended a systematic review and update for the VASRD. The Congress has repeatedly demanded the same. I believe that the case for such a system is made.

My Committee has informally recommended to the Secretary that the Deputy Secretary be tasked with oversight of the VASRD systematic review and update process to ensure that the Veterans Benefits Administration (VBA), the VHA and the General Counsel are fully integrated into the process.

We are also offering a proposed level of permanent staffing in both VBA and VHA to ensure that all 15 body systems are reviewed and updated, as necessary, in a timely way. We are proposing a priority among the body systems that takes into account the following: Body systems that are at greatest risk of inappropriate evaluations; body systems that are considered problem prone, and the relative number of veterans and the amount of veterans' payments associated with each of the systems.

Regarding disability compensation for non-economic loss, also referred to as quality of life, we are reviewing the Special Monthly Compensation Program and also analyzing options for forms of compensation beyond a monetary stipend.

Regarding disability compensation related to the transition from servicemember to veteran status, we are reviewing the many recent changes and improvements to the transition programs to determine if and where gaps in coverage and assistance may remain for veterans and families. We are also reviewing the Vocational Rehabilitation and Education program as it relates to transition for disabled veterans.

In summary, our Committee's work is progressing on a broad front. The parameters of our charter offer us the opportunity to look at all aspects of disability compensation and we are doing so. The Committee has excellent access to the Secretary and his staff. The VA staff is responsive and helpful to the Committee's requests for information. It is our intent to offer interim reports to the Secretary semi-annually.

Mr. Chairman, this concludes my statement. I welcome any comments or questions.

[The prepared statement of General Scott appears on p. 65.]

Mr. HALL. Thank you, General.

Mr. Ratajczak, is it, Ratajczak?

Mr. RATAJCZAK. Ratajczak.

Mr. HALL. Ratajczak. Sounds like a drum lick from my old days in the music business.

You are now recognized for 5 minutes, sir.

**STATEMENT OF MICHAEL RATAJCZAK**

Mr. RATAJCZAK. Thank you. Thank for providing the AFGE the opportunity to speak today.

The simple answer that we have to the question of whether the VA can handle a million claims or any other number of claims is that, yes, we can. We can because we have to. We can't fail the people who have never failed us.

We believe that, ultimately, the best way to improve the claims process is to do each claim right the first time. And consequently, AFGE would like to emphasize opportunities to increase quality in claims processing presented by Public Law 110-389 as a means of reducing the claims inventory.

First, AFGE encourages VBA to seriously consider modifying the claims processing initiative that began about 8 years ago and that may be partially responsible for the diminished quality of adjudicated claims and the growing inventory. Mr. Walcoff's written statement indicates that VBA started this process by contracting with Booz Allen Hamilton for a study, and I think that is a good first step.

We would like to suggest, however, that Public Law 110-389 requires an independent analysis of the effectiveness of VBA's policies for brokering cases between regional offices.

AFGE has been advised of preliminary findings by Booz Allen Hamilton that indicate that the more the claims file is moved from one place to another or one person to another within a regional office, the less efficient the claims process becomes. And we would suggest that that conclusion begs consideration by VBA management that there are obvious implications concerning transferring files between regional offices.

One of the greatest flaws in the VBA claims process has been the failure to set employee workload requirements based on valid empirical data. VBA must, by now, recognize that it needs such data to accurately project its workforce needs. We hope that VBA will take the opportunity provided by Public Law 110-389 seriously and with no preconceptions, identify how much an employee can reasonably be expected to do within an acceptable level of accuracy, and then project a number of employees it needs to process its inventory based upon that data.

If VBA does not know what its employees can actually accomplish, it can never accurately project its resource needs and will be continually plagued by questions of whether it can handle its inventory. Public Law 110-389 also provides VBA with a valuable opportunity to ensure that managers and employees who perform quality review within VBA have minimal confidence by requiring them to pass certification tests.

We are troubled that in our recent discussions with VBA, VBA has maintained that employees who perform quality review need not be subject to certification since they are not considered directly responsible for processing claims. That argument is based on the incorrect assumption that Congress does not consider quality assurance part of the claims process.

AGFE and many others have consistently criticized VBA for emphasizing quantity over claims—I am sorry—over quality in claims

processing and Public Law 110-389 was enacted, in part, as a result of those criticisms.

Our workforce is becoming increasingly frustrated because managers and other employees who evaluate our work often lack sufficient expertise to do so. Therefore, we urge this Subcommittee to clarify that quality review and quality reviewers are covered by a certification requirement.

We also urge greater transparency in the process for designing and administering management certification tests. AFGE is concerned that the design process for certification testing of first line supervisors has already begun, and AFGE has yet to be solicited to participate in that process.

In addition to showing transparency, we believe it will be useful for VBA to consider the attributes of successful managers from the standpoint of those they supervise when designing management certification tests.

Finally, AFGE suggests that VBA begin the process of converting to a paperless environment by scanning documents, first those associated with all new initial claims. We also suggest that the contents of any claims file that is transferred from one regional office to another to be transferred to the Board of Veterans' Appeals be converted to an electronic format first.

Converting those files to a paperless format will eliminate the need for costly physical transfer of claims files and reduce the possibility of losing important documents. It will ensure that documents received after transfer of the claims file are associated with the file in the most efficient manner. And making claims electronic before they are transferred will also ensure that coexisting claims can be worked accurately and simultaneously in multiple jurisdictions.

The Veterans Benefits Administration is faced with a challenging claims inventory. However, Public Law 110-389 gives VBA tremendous opportunities to improve service to claimants and become more accurate and efficient and reduce pending inventory to a more acceptable level.

Most importantly, this legislation provides new tools to ensure that VBA never again faces the challenges confronting it today. VBA must consider how to leverage the requirements of Public Law 110-389 to best serve claimants, and to do so, VBA must consult with and be open to suggestions from all interested parties, including its workforce. Our claimants deserve that and they have every right to expect it.

I would be happy to address any questions the panel may have, and thank you for the opportunity to speak today.

[The prepared statement of Mr. Ratajczak appears on p. 66.]

Mr. HALL. Thank you, Mr. Ratajczak.

And, General, thank you for your testimony.

Mr. Ratajczak, I am relieved to hear the positive assertion in your testimony that VA can meet the challenges that approaching a million cases will present.

What do you think, on average, would be a reasonable number of claims for a rater to be able to decide on a given day?

Mr. RATAJCZAK. Our experience is that three cases a day. I think that the most workable workload performance standard in the VBA

right now is the standard that applies to Decision Review Officers. Decision Review Officers are required to create—I am sorry—to obtain three production points a day.

But what sets that standard aside from the standards that are applicable to rating specialists is that Decision Review Officers get credit for properly developing a case, and rating specialists do not do that. I think that would be a start, a starting point. However, ultimately we would like to see a study done that says or that shows what fully trained rating specialists can actually do in a day and use that as a standard and as a starting point for determining what an adequate workforce is.

Mr. HALL. Mr. Ratajczak, should claims also be assigned to, to an individual employee and not just to a team to improve accountability and training opportunities?

Mr. RATAJCZAK. I don't believe that it should be assigned to an individual employee. I think a team approach is better. I don't think we have that with the current claims processing initiative model. That is more of an assembly line approach where the claims file can be transferred amongst employees to do essentially the same work, and it requires each employee who touches the file to become familiar with it ab initio.

The better process, I think, and the better solution would be to have teams of claims processors where you have a specific person assigned to develop the evidence in the case, a rating specialist sitting in very close proximity to them that can help them direct development of the case so that if, indeed, there is enough evidence to evaluate the claim to establish service-connection, that could be done without overdeveloping the case.

Mr. HALL. General Scott, in your testimony you note that you have already made a recommendation to the Secretary that permanent staffing be assigned to revise the rating schedule. Is this a recommendation that will require additional positions to be created, or can this be managed within the current workforce?

General SCOTT. It will require the reallocation of resources or, you know, I wouldn't presume to tell to the Secretary whether he had to hire more people or just make adjustments internally, and I believe he is very serious about trying to get this, a systematic review and updating of the schedule underway. And in order to do this, there is no question that it is going to require a significant number of permanently assigned people in the VBA and in the VHA, and we probably got more prescriptive than the Secretary will like.

But just to give you some idea of numbers, it is our Committee's view that in order to do this properly, you need about nine full-time equivalent (FTE) people in the VBA side of it and probably about five or six full-time equivalents in the VHA side of it. But I would like to reiterate, the problem, or part of the problem is that at the moment, there is one person working on the update of the rating schedule, a Dr. McBrien, well known to everybody.

And so, what we believe is that, first of all, this whole project has got to be elevated because in the judgment of my Committee, only the Secretary or the Deputy can pull together the VHA, the VBA and the General Counsel to make this thing move. And if we are serious about updating these 15 body systems in a timely way, I

believe that is going to be the requirement. So, you know, I am sure that the Secretary will refine this estimate of people, but I would say somewhere around 15 or 16 full-time people. Some of them are going to have to be medical professionals and some of them will have to be administrative people, to do this because, as you know, sir, it is a very complex issue to update one of these body systems.

Mr. HALL. It seems like more than one person's work, to the layman anyway.

I would ask you if there are any institutional or cultural resistances within the VA that you have seen that would require change and how can we address those issues?

General SCOTT. I look at it as more of a resistance to pulling people together into a group to do this job under the supervision of a high enough official who has authority over all the aspects, the VBA, the VHA and the General Counsel. So I would say it is more of a cultural barrier than anything else.

And, for instance, when the VA prepared the TBI evaluation—the Traumatic Brain Injury—they did a tremendously good job in the eyes of many. It took 18 months, and they were able to put together an ad hoc team to do this over an 18-month period.

But what we would like to see is get away from that hocracy, get to an element whose job it is, is to do this. One body system after another, and as I said, we even offered our thoughts on what the priority might be. As a matter of fact, I could tell you we thought that probably at the beginning would be probably mental disorders because that seems to be an area of where the rating schedule needs probably the most work; musculoskeletal, because that is where most of the money goes and that is where the largest number of disabilities are; neurological and on down the line. So we had a rationale for offering that.

But in order to revise the rating schedule in a 5-year period, a 3 to 5-year period is going to require dedicated assets and high level leadership, and that serves the point that we are trying to make.

Mr. HALL. Thank you, sir. I will now recognize Ranking Member Lamborn for his questions.

Mr. LAMBORN. Yes, thank you, Mr. Chairman.

In your discussion of the training study that was required in 109-461, you said that you were in favor of centralized training. How would this be different from the courses already offered at the VBA Training Academy in Baltimore?

Mr. RATAJCZAK. The difference would be that it would be ongoing training beyond the initial training. Challenge training in Baltimore at the Academy, at this point in time, is basically for new hires or for folks who are transitioning from one position in VBA to another. What we would like to see happen is that we have a dedicated corps of instructors that serve under the direction of Compensation and Pension Service who are responsible for training the people at VA regional offices in accordance with the policy and the directives of Compensation and Pension Service. That would ensure that there is a uniformity amongst VA regional offices with regard to how new material is presented and how rating specialists

and development veterans service representatives (VSRs) are trained to implement new policies or to address changes in the law.

What we have now is a system where every regional office looks at the Compensation and Pension Service directives, their raw material, a fast letter or training letter, makes an interpretation of what that means and presents the information in that fast letter or training letter to their personnel. And I think, in large part, that is why we have such a wide disparity in the way different regional offices approach claims. And that is reflected in the inter-rater reliability studies that have recently been undertaken by VBA.

Mr. LAMBORN. Okay. Also, in your written testimony, I was concerned where you describe reports of significant numbers of new VSRs and rating veterans service representatives (RVSRs) being fired during their probationary periods for poor performance, even though they had not completed mandatory training. Can you elaborate on this assertion and can you provide this Committee more information on this allegation?

Mr. RATAJCZAK. I can't provide specific number because it is really anecdotal evidence that AFGC gets from the field. I can provide a specific example that I was informed of. And that is, we had a rating specialist hired in the VBA who happened to be retired from a county prosecutor's office. In the capacity as a county prosecutor, this person was primarily responsible for prosecuting death penalty cases and pursuing appeals in death penalty cases. Those of you who are attorneys, are familiar with the law, understand that those are the most complex issues that you can face.

This particular person came in after he retired from the county prosecutor's office and wanted to be a rating specialist. He was a veteran and he wanted to help veterans and he thought that was the best way he could do it, as a second career. He went to Challenge Training in Baltimore. He came back to his home station. He was thrown into the mix, rating cases. There was no follow up, necessarily, with regard to a standard curriculum for his training. He took a great deal of time rating cases. He wrote very good decisions, and ultimately he was shown the door prior to his 1-year probationary period coming up.

And on his way out, his immediate supervisor told him that there was simply no way that he had the intellectual ability to grasp the requirements of writing a rating decision. And that seemed rather appalling to me.

The fact of the matter is, people come into the VBA, they have very good intentions, and almost all of them are trainable to the point where they can do a good, quality job. The problem is, they are not trained correctly. The training that is provided is too often derailed for other purposes, and ultimately we end up with folks who either cannot produce adequately or cannot produce accurately.

Mr. LAMBORN. So you are personally acquainted with the one case?

Mr. RATAJCZAK. I have personal knowledge of that case but, again, I have reports of many other cases. I cannot provide a number.

Mr. LAMBORN. Okay. Thank you, Mr. Chairman.

Mr. HALL. Thank you, Mr. Lamborn.

Mrs. Halvorson.

Mrs. HALVORSON. Thank you, Mr. Chairman and Ranking Member.

Thank you, also, panelists for being patient with us today and staying.

We have had several hearings on the backlog, and I am going to try to keep this as simple as possible.

One of the biggest problems and things that people call my office for are veterans issues. Against those is the backlog and why their claims are denied forces them into appealing, which causes your backlog to be even bigger.

Now, when you say a team is going to work on something, who answers the questions, then, if somebody calls in? I mean, who answers them? I mean, if you don't have just one person working on a claim from start to finish because I looked at this form, and there are more steps on this form than I thought that anybody could perform.

This is about taking care of our veterans, helping them with their problems and fixing them. And I am very frustrated that we have to deal with claims that are denied because of God knows what kind of issues, and then they are appealed, when you could just take care of them the first time around.

So I have great respect for the process, but every time I ask questions, I don't know how to narrow it down, keep it simple and take care of our veterans. I mean, it is a simple thing and if we need better people or better trainers, we need to get it simpler and if you don't have systems that talk to each other, maybe we need to work on that. But can we simplify this and who it is that we are just not taking care of our veterans the way we should and forcing them to appeal something that has been denied possibly wrongly?

And I don't know who wants to go first.

Mr. RATAJCZAK. I think your, I think our Members feel very similar the way you do. There is nothing in our adjudication manual that is listing under the heading, "Do the right thing." And the problem is that too often we are told that you approach a claim by reference to a checklist when, in all honesty, if we just simply exercise reasonable doubt the way it should be exercised, read claims sympathetically and pick up a phone and give a veteran a call and say, hey, this is what you said, I don't quite understand it, and maybe if what you mean is this, I can grant you a benefit, can I help you.

Mrs. HALVORSON. And why aren't we doing that?

Mr. RATAJCZAK. Because we are not giving credit for doing it. And that is a dysfunction with regard to the Workload Management Program that VBA currently suffers.

Mrs. HALVORSON. Because I have a lot of caseworkers in my office, and I don't let them share cases. I want them starting it and finishing it because when there is a question, one person can answer the question because if you have a team of five people working on something, you are going to get five different answers depending on who answers the call.

Mr. RATAJCZAK. I agree, and it is somewhat, it would be somewhat of a complicated process for one person to handle a VA claim from start to finish.

Mrs. HALVORSON. And I understand that.

Mr. RATAJCZAK. But one of the things that we tried to bring forward in our testimony is that one of the problems that complicates things for veterans is the fact that cases are brokered all over the country. So if it is bad enough that you don't have three people in a regional office who area familiar with a claim, think about a veteran's frustration when he has to chase his claims files all over the United States.

Mrs. HALVORSON. Oh, I hear it everyday.

Mr. RATAJCZAK. He sends in a letter and he sends it, for example, to the Cleveland Regional Office, but it doesn't get to where the claims file is in Waco for 2 months, and by that time Waco has done what they needed to do with that file and sent it back. So it is very frustrating.

I think the best solution is to have a very discreet number of individuals who are assigned for a given claim and keep the claim with them from start to finish as best you possibly can.

Mrs. HALVORSON. And the only other question I have is, now I know that we are working towards electronic medical records, but the problem being that some systems don't talk to each other.

Now, I traveled to Kuwait, Afghanistan, Landstuhl, to see how we can better serve our veterans and provide a better system of transition from the Department of Defense to the Department of Veterans Affairs. And in Landstuhl, Germany, they were showing me how they have their electronic medical records and there has got to be a way—I have an iPod and I am not technologically savvy, but there has got to be a way that everybody could have their medical records with them somehow that we should not be losing things. We should not be misplacing them. They should not be shredded. There has got to be a simple way.

So I don't want to put you on the spot now, but if you have any ideas, I think that it is something that we have to work on. I think this would cause or help a lot of the problems that we are seeing. And I don't know. You don't have to agree with me, but that is what I see in my office.

Mr. RATAJCZAK. I do agree with you and I think as we go forward and the Department of Defense records are more easily accessible to us, we will have less of a problem with that.

The problem that we really have is with veterans from, say, the gentleman who spoke earlier, from 1991, 1993, where we could not access the DoD records electronically. So then it becomes a matter of trying to trace down hard copies of medical records through the National Personnel Records Center, individual States, National Guard units, things of that nature, and that really is a slow process, and I understand it is frustrating. I think perhaps Mr. Walcoff would be better at addressing how to approach that.

Thank you.

Mrs. HALVORSON. Thank you.

Thank you, Mr. Chairman.

Mr. HALL. Thank you, Mrs. Halvorson.

Am I to understand, then, Mr. Ratajczak that you now are able to access DoD records electronically?

Mr. RATAJCZAK. We are not able to access all the active-duty records electronically, but many of the records, for example, if a veteran is discharged from service and then goes to Wright-Patterson Air Force base, we can access many of those records.

And, generally, my experience has been that it is not that difficult to get records, recent medical records from military hospitals in support of a claim. It is the older records that really present the problems.

Mr. HALL. Well, that makes sense and both of you talked in your, General Scott and Mr. Ratajczak, you talked and wrote in your written testimony about the IT strategic plan and the feasibility for VBA to manage in a paperless environment.

We have heard testimony here from Judge Kasold from CAVC in which he mentioned that by the time the files get to him, the cases get to him, they all are in electronic form. And both, Mrs. Halvorson and I, witnessed in Afghanistan or Iraq or Kuwait that doctors treating our servicemen in active duty are entering information about injuries and treatment in the field into an electronic record and that in Landstuhl, Germany, they are dealing with an electronic record, and somewhere in between there is this black hole of paper that they fall into where they have to be printed out and then reentered again.

And many of us are longing for the day, and have been asking for, you know, the last couple of years, like, what do we have to do to bring these two ends together so that they talk—electronically you have that handoff of information.

I would just ask you both, in closing, to guess how much of improvement it would be or, conversely, how much of the current problem, in terms of timely ratings, is because of the lack of an electronic compatibility between DoD and VA?

Mr. RATAJCZAK. I think we could significantly reduce claims processing if we were able to share that information. And that will improve things slowly over time going forward.

But, again, the real problem we have is the historical records that we have, the ten volume claims file that somehow or another needs to be scanned in so that they can be processed electronically, so that when a veteran appeals one issue to the Board of Veterans' Appeals, the issues that he has pending in the regional office—say a veteran appeals a claim for service-connection for a PTSD, that issue is with the Board of Veterans' Appeals, but in the meanwhile he wants increases for his orthopedic conditions.

We need to be able to process those differing claims in different jurisdictions simultaneously. And the way to do that, I think, is as we have suggested, to take claims before they are transferred between regional offices or from a regional office of the Board of Veterans' Appeals and focus on those as far as putting them in electronic format.

So we are transferring the oldest paper files that are active, so to speak, into an electronic format so that we can devote proper attention to them. Thank you.

Mr. HALL. General, would you like to add something?

General SCOTT. Yes, sir. I am speaking now from my days as the Chair of the Veterans Disability Benefits Commission that ended in 2007. And one member of your staff was on the staff of that Commission. That was Ms. Garrick in the back, and she can probably provide you with more detail than you would ever want about it.

But, clearly, one of the most serious deficiencies systemwide was the incompatibility between DoD and VA medical records, the electronic incompatibility. And the other thing was the lack of a roadmap that we could see that took the VA to a completely electronic record. And I am reminded of my days in the Army when a decision was made, I believe, in about 1980, that we are going to electronic personnel records, and there was a lot of yelling and screaming it would never work and what about all those people that had paper records and on and on.

And so, they just said, look, there is a date certain beyond which or forward of which everything is going to be electronic, and we will see what we can do about working the older files into the system, but you have to get started somewhere.

And I really think that part of the problem is that there is a lack of a roadmap that says on this date we are going to begin all VA files totally electronic, and then we will see what—we will do what we can about scanning in the older ones and all that.

But if you don't start somewhere, you are never going to get started, and that seems to me to be a way to look at it, both on the medical side, compatibility side and on the record side.

Mr. HALL. Spoken like a commanding officer and thank you very much.

Thank you, both, for your service to our country and to our veterans. Thank you for your testimony and you are now excused. Thank you, also, for your patience.

And we will ask our third panel to join us at the table, Michael Walcoff, the Deputy Under Secretary for Benefits of the Veterans Benefits Administration, U.S. Department of Veterans Affairs; Bradley Mayes, Director of Compensation and Pension Service for the VBA; Scott Cragg, Executive Director and Program Manager, Virtual Lifetime Electronic Record Program, Office of Policy and Planning for the U.S. Department of Veterans Affairs; and Paul Tibbits, M.D., Deputy Chief Information Officer and Office of Enterprise Development, Office of Information and Technology, U.S. Department of Veterans Affairs; Rear Admiral Gregory Timberlake, Acting Director of the DoD/VA Interagency Program Office (IPO).

I think we have the real stuff here, and I thank you, gentlemen for your patience, and thank you for your service to our country and to our veterans. Your complete statements are, as usual, entered into the record.

And, Mr. Walcoff, Deputy Under Secretary Walcoff, you are now recognized for 5 minutes.

**STATEMENTS MICHAEL WALCOFF, DEPUTY UNDER SECRETARY FOR BENEFITS, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY BRADLEY MAYES, DIRECTOR, COMPENSATION AND PENSION SERVICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; SCOTT CRAGG, EXECUTIVE DIRECTOR AND PROGRAM MANAGER, VIRTUAL LIFETIME ELECTRONIC RECORD PROGRAM, OFFICE OF POLICY AND PLANNING, U.S. DEPARTMENT OF VETERANS AFFAIRS; PAUL TIBBITS, M.D., DEPUTY CHIEF INFORMATION OFFICER, OFFICE OF ENTERPRISE DEVELOPMENT, OFFICE OF INFORMATION AND TECHNOLOGY, U.S. DEPARTMENT OF VETERANS AFFAIRS; AND REAR ADMIRAL GREGORY TIMBERLAKE, SHCE, USN, ACTING DIRECTOR, U.S. DEPARTMENT OF DEFENSE/U.S. DEPARTMENT OF VETERANS AFFAIRS INTERAGENCY PROGRAM OFFICE**

**STATEMENT OF MICHAEL WALCOFF**

Mr. WALCOFF. Thank you, Mr. Chairman, Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss the Veterans Benefits Administration's disability claims processing system and our efforts to improve processing and timeliness.

I am accompanied by Mr. Brad Mayes, Director of our Compensation and Pension Service; Mr. Scott Cragg, Executive Director and Program Manager for the Virtual Lifetime Electronic Record; and Dr. Paul Tibbits, who is the Deputy Chief Information Officer of the Office of Enterprise Development.

As described in my written testimony, a number of figures have been used to define the backlog of compensation and pension disability claims at VBA. Let me say up front, we do not have a backlog of one million claims. In recent publications, it appears as though the backlog is being defined as inclusive of all benefits actions, including rating and non-rating actions, plus pending appeals at both VBA and the Board of Veterans' Appeals, as well as miscellaneous actions, such as correspondence.

I want to emphasize that processing all of these actions is important work that needs to be done in a timely manner, but not all of these actions should be categorized as claims. To categorize this work as all benefit claims as was described in several recent publications is an inaccurate representation of our pending claims inventory.

VBA bundles work into two categories, rating and non-rating workload. The rating workload is composed of original and reopened claims for disability compensation and/or pension. VBA uses this workload as the measurement for the pending claims inventory because these are claims from veterans waiting for an entitlement decision for service-connected disability compensation or non-service connected pension benefits.

The non-rating workload includes actions that do not require a rating decision, such as eligibility determinations or income adjustments. This portion of VBA's workload varies during the year, due to the cyclical nature of the income and eligibility verification process associated with the pension workload.

VBA's pending claims inventory includes all rating-related claims received, whether the claim has been pending for a few hours or for a much longer period of time. The pending claims inventory is dynamic, since completed rating-related claims are removed from the inventory while new rating related claims are added on a continual basis. This year we are averaging over 80,000 new claims added to the inventory each month.

VBA's strategic goal for completing disability claims is 125 days. At the end of fiscal year 2008, there were 139,333 rating claims pending for more than 125, or 36.7 percent of the pending inventory. During fiscal year 2009, VBA has made progress in reducing the number and percent of inventory pending greater than 125 days. At the end of May, we were at 134,626, or 33.5 percent, of the inventory that was pending greater than 125 days.

Our production, or number of claims completed, has increased by 9.3 percent as compared to the same period last year. However, fiscal year to date ending May of 2009, the number of rating related claims received has increased 13.5 percent as compared to the same period last year. Our pending rating claims inventory has increased this year by approximately 22,000, to a total of 402,000 as of May 31st.

Although the pending claims inventory has increased, we believe this is mainly due to many outreach efforts VBA has conducted, which were targeted to specific groups of veterans, such as mailing letters to veterans receiving treatment at VA medical centers for type-2 diabetes who served during the Vietnam War and conducting outreach to separating servicemembers at discharge locations around the world.

Despite increases in our pending inventory, timeliness has improved. Fiscal year to date ending May of 2009, the average days to complete a rating related claim has decreased to 161.8 days as compared to 178.9 days during the same period last year.

VBA has taken steps to decrease the pending inventory further. We have hired nearly 4,200 new employees since January of 2007 and believe that these employees will continue to make progress in delivering more quality decisions in a timely manner.

In addition, VBA is conducting a pilot in Little Rock, Arkansas, as a result of a recent study focused on improving the claims process cycle time, and that was referred to by Mr. Ratajczak.

Not only is VBA investigating ways to make changes to the claims process, but we are also investing in the migration of C&P claims processing to a paperless environment. This includes deploying imaging and enhanced electronic workflow capabilities, enterprise content and correspondence management services, and integrating those services with our modernized payment system.

VBA anticipates that the release of the initial hardware and software in support of this large scale expansion will occur during fiscal year 2010. VBA is also working with Booz Allen Hamilton regarding business transformation services. Booz Allen Hamilton is assisting us in business process re-engineering, organizational change management, workforce planning and organizational learning strategies to ensure that VBA is well positioned to take best advantage of the technology solutions being proposed.

VBA has established a business transformation lab in Providence, Rhode Island, to serve as the focal point for convergence of business process re-engineering and technology, assuring that the service delivery is optimized and best practices are developed and deployed throughout VBA.

VBA is also working to create a streamlined electronic communication method with stakeholders such as the Department of Defense. VA and DoD are working collaboratively to define the scope and strategy for the Virtual Lifetime Electronic Record or VLER. Both departments have agreed that the objective for VLER is to establish a coherent lifetime electronic record that will capture service men or veteran information from accession into the military service. This will include all information necessary to provide medical care services, benefits, and compensation to the veteran, eligible family members or eligible beneficiaries.

VLER will enable VBA to have a consolidated view of veterans data and leverage the exchange of accurate data from the authoritative source in order to streamline claims processing.

Finally, in my written statement, I provided a significant amount of detail regarding the status of the implementation of Public Law 110-389. Overall, VBA is generally on track to complete each section of the law as requested by the due date.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or the Members may have.

[The prepared statement of Mr. Walcoff appears on p. 69.]

Mr. HALL. Thank you, Secretary Walcoff.

Mr. Timberlake, you are now recognized for 5 minutes.

**STATEMENT OF REAR ADMIRAL  
GREGORY TIMBERLAKE, SHCE, USN**

Admiral TIMBERLAKE. Thank you, sir. Chairman Hall, distinguished Members of the Subcommittee, thank you for the opportunity to discuss the role of the Interagency Program Office in the ongoing data sharing activities of the Department of Defense and the Department of Veterans Affairs.

In recent months, the IPO has been focused on two central areas: first, facilitating the efforts of the two Departments to achieve full interoperability of their electronic health records for the provision of clinical care by September of this year; and second, working with the Departments to develop an effective governance and management model for the Virtual Lifetime Electronic Record project which has been previously mentioned. These two areas will be the focus of my testimony today.

Let me begin by providing you with a very brief overview of the DoD/VA Interagency Program Office, otherwise known as the IPO. Since its inception in 2008, the main objective of the IPO has been to provide management oversight of joint DoD/VA information-sharing efforts. Specifically, we work with the Departments to ensure that their electronic health record systems will be fully interoperable by September of this year, as I mentioned previously. DoD and VA began laying the foundation for full interoperability in 2001, when the first patient health information was shared electronically using the Federal Health Information Exchange, which goes by the acronym FHIE. Since that time, both Departments

have continued to enhance and expand the types of information that are shared, as well as the manner by which the information is shared. By building upon the prior accomplishments of the Departments to develop interoperable bi-directional electronic health records, the IPO and the Departments have been successful in formulating a plan to achieve the full interoperability previously mentioned for the provision of clinical care by the September 2009 target date.

As part of this plan, VA and DoD's ability to utilize well known interoperability capabilities like the FHIE and the Bidirectional Health Information Exchange have been greatly expanded. At the same time, new capabilities like the Clinical Data Repository/Health Data Repository, or so called CHDR, have been added, allowing even more medical data to be transferred between the two Departments. Together, these resources are enabling unprecedented amounts of medical data to be transferred between DoD and VA. Today, I am pleased to report that we remain on target.

The future promises even greater possibilities for data sharing, as we work to fulfill the President's vision to develop this joint Virtual Lifetime Electronic Record, or VLER. The VLER will serve as a single source of health care, health care benefits and personal information on the servicemember or veteran from the time of accession through their entire military career in the veteran continuum as has previously been mentioned.

The effort to create VLER is a monumental undertaking, representing one of the largest single joint projects that any two Federal Departments have collaborated on in recent years. As with any undertaking of this magnitude, proper planning and governance is absolutely critical to success. The IPO has been taking a lead role as a facilitator in our interagency efforts to develop a strategy for VLER implementation. Following the policy guidance provided by the President, the IPO established a VLER working group at the operational level to provide a focused requirements and management effort to accelerate the adoption of a joint DoD/VA timeline for the VLER. There is already consensus among senior officials from both Departments on many of the categories of health and benefits data that must be accessible through the VLER.

In addition to new discussions on the scope of VLER, the IPO also plays an active role in efforts to reach interdepartmental consensus on broad, technical requirements issues. In this area, progress is being made on the Departments' efforts to agree to use a nationally recognized set of uniform and open standards for information exchange. This approach, in the future, will enable DoD and VA to create an architectural framework that is capable of interconnecting with systems from both the private sector and other governmental agencies.

Finally, as I mentioned in my written testimony, the IPO is working closely with the Departments to determine how to modify existing leadership and management structures in order to provide an effective governance model for VLER.

Together, these efforts will help provide a solid strategic foundation for the implementation of the new VLER.

And operational, the VLER will provide our servicemembers, veterans and service providers and their beneficiaries with extraor-

dinary access to health records and benefits data, thereby improving the quality of both health care and benefits services in my opinion.

Thank you for the opportunity to address the Committee, and to provide you with an update on the important work that is being done in advancing electronic data sharing between the two Departments.

I look forward to keeping you apprised of our progress as we move forward and I would be pleased to attempt to answer any questions you may have.

[The prepared statement of Rear Admiral Gregory Timberlake appears on p. 73.]

Mr. HALL. Thank you, Admiral.

And I assume, Mr. Walcoff, that your colleagues are here to answer specific questions?

Mr. WALCOFF. That is correct.

Mr. HALL. Okay. So, no more statements, per se.

I guess, I would start with a question to you, sir. According to a DoD Health Treatment Record Analysis Report, DoD loses on average 3½ million pieces of paper a year. This year, so far, the DoD failed to transfer 1.6 million pieces of paper to VA. According to the report, 20 percent of DoD paper records are lost. When records were finally shipped to VA, it resulted in 9,200 readjudications in a year. Furthermore, this represents about 13 percent or 40,000 veterans being wrongly denied.

This is a huge burden placed on VA and ultimately the veteran as well. So what can be done to address this problem and what does it say about VA's reliance on DoD records?

Mr. MAYES. I will take that, Mr. Chairman.

Mr. HALL. Thank you, Mr. Mayes.

Mr. MAYES. First of all, we do rely on Department of Defense records to adjudicate claims for service connected disability compensation because we need, as I have said before in previous testimony, we need that current disability or disease, some evidence of an injury or onset of disease while on active duty and then the nexus between the two. So that forms the basis for compensation. So we do need those records. They are important to us.

I would say that the efforts underway that have been described here to migrate to an electronic record that moves seamlessly from DoD to VA, it would be a wonderful solution and that is what we are working hard toward. I think that is the mandate from the President and, clearly, it is a high priority for—the highest priority for both Secretaries.

Mr. HALL. We share that priority with you.

Depending on how you define a backlog, how many veterans would you say, either Mr. Walcoff or Mr. Mayes, how many veterans who were waiting for a claim to be decided have committed suicide?

Mr. WALCOFF. I don't have an answer for that. When you say "waiting for a claim to be decided," you are saying that from the time that they filed the claim and then some time before a decision was made, they committed suicide, I don't have an answer for that.

Mr. HALL. Okay. I don't know if that is something that you—that the Department keeps track or if you—I mean, I think I heard you mention the 125 day mark as something that you consider a target.

Mr. WALCOFF. It is our strategic target, yes.

Mr. HALL. Right. So it might be useful to keep track of how many veterans who were in the system and were past 125 days. I mean, we have all read and heard about the record number of suicides, both in our active duty military and also in our veterans corps, so of course it would seem that, at least in some cases, speed is of the essence in terms of processing claims that might reflect, especially in this difficult economic environment that we are in today, on a veteran's self-esteem and his or her ability to put a roof over their head, food on the table, take care of their families, have a life that is not one of despair or poor self-image.

I am not a doctor or a psychiatrist, but I am suggesting that this is something that VA should be able to—a question VA should be able to answer in order to find the right solutions to these problems.

Mr. WALCOFF. What I would say is, is that, you know I think that we believe that we have a responsibility to all veterans to provide a quality decision as quickly as possible.

As you know, there are certain procedures that we have to go through, based on the law, including VCAA, which we have talked about in previous hearings, and certainly we need to find the balance between following the law as it is written, but also understanding that veterans are dependent on the decisions that we make, and we need to try to do everything we can to do it in as an expeditious a manner as is possible and we are fully aware of that, and certainly I think that we owe that responsibility to all veterans.

Mr. HALL. Thank you. I understand and I appreciate all of those factors that you have to balance.

Admiral Timberlake, for several years, VA and DoD have been strategizing the seamless transition with a key component being a shared electronic record. And the best it seems that we have come up with so far is to create patches between VistA and AHLTA with some modest success, but not necessarily a real solution.

What is the vision at this point for making the Virtual Lifetime Electronic Record actually happen? Will it require both Departments to use the same IT architecture or will two systems be able to function jointly and have a translator between them?

Admiral TIMBERLAKE. Thank you for the question, sir. And I may ask Scott Cragg to weigh on this as well because he is the VA architect. And while I have to know some of this, I am a Reservist and a general surgeon from rural Mississippi, so I may ask him for the technical details.

However, as we move forward in what we believe will be what we describe as a service oriented approach, then although it may not be identical, but if we build services which can then be reused, then we can go in and pull from each other's database what we need.

So I don't know that I am going to be able to say that it is going to be the exact same program, if you will, but we will have much better ability to see and move in between. As you have mentioned,

right now we have been, I think, very successfully. I don't know that we have done enough of a good job of showing how much we can share, but we have been very successful in building those sharing bridges between the two systems. What we want to do is something that will be transparent to the user, whether it is a service-member of the physician in the VA or the physician in DoD.

Now, let me see if Scott would like to expand on my rural general surgeon's description of this.

Mr. CRAGG. Mr. Chairman, Members of the Committee, absolutely there is room within the VLER architecture for multiple systems. But what is important right now is that we establish the capability between the two agencies, not only to share the data that we share today because there is a great deal of data shared both on the health as well as the benefits side. In fact, we do have the bidirectional health exchange that does move information in the health care arena between VA and DoD in both, again in both directions.

But we also share an extensive amount of administrative data about our veterans on the benefits side. The key to VLER is not only to be able to promote sharing of data, but it is also to present that data in a single format that is recognized as being a single record. In fact, the architecture should be able to allow that, while also pulling data from multiple sources, multiple databases and multiple systems.

There is another part of the VLER that is also very important. It is to extend the ability for veterans and servicemembers to see that data beyond just the clinicians and those who provide those benefits. So, yes, the architecture for VLER as we are envisioning it today will more importantly provide for standards and interfaces that allow for information to be shared and then seen in a uniform way, but to also provide the opportunity where there may be multiple services, multiple solutions and multiple systems that are part of the overarching VLER concept.

It is not only possible but it is also a positive way to move forward and a very good idea because as technology improves, as methodologies improve, we need to be able to leverage those methodologies and take VLER even further.

Mr. HALL. Thank you, sir.

Mr. Lamborn, would you like to ask some questions, please?

Mr. LAMBORN. Thank you. When can we expect to see draft regulations on section 212 of Public Law 110-389, which authorizes the substitution of a spouse when a claimant dies?

Mr. MAYES. Thank you, Mr. Lamborn.

We are crafting those regulations right now. We have a draft, but there are some policy issues that we are trying to work through. We are working with our Office of General Counsel. I think that we would have something that we would have for concurrence within the next 2 to 3 weeks, but then it has to, of course, go through our concurrence process and then it would be published in the *Federal Register*.

Mr. LAMBORN. Okay. Thank you. And we are watching that closely. I had that in a bill, H.R. 3047, Representative Hall had that in a bill, and then it finally became law, and so we are watching it with great interest.

Can you give us a timeline on when you expect the first steps to be taken to move forward with your new electronic processing system?

Dr. TIBBITS. If you are referring, Congressman, to our paperless initiative, we are still committed to dates that we have previously, I am sure, made you aware of with our capability fielded in the year 2012. Of course, a lot has to happen between now and then. No program of that magnitude is free of issues and risks and we are working through many of those issues and risks now. As things stand today, that is still our plan.

Mr. LAMBORN. Okay. Thank you.

Mr. Ratajczak, and I hope I pronounced that correctly, stated earlier that there are reports of new VSRs and of VSR being fired during their probationary periods for poor performance even though they had not completed mandatory training. And apparently he was aware of one of those personally. Can you confirm these reports?

Mr. WALCOFF. Without knowing the specific examples, I would still probably say that, yes, that is happening. The fact is that the probationary period was specifically established for management to be able to evaluate a person's performance during that first year, if necessary, take those types of actions with the employee without having some of the protections that more senior employees have.

You mentioned taking that action against somebody who is still in training. Well, even when you are in a training program, there is a progression that you can be expected to make during that training program. And there can be situations where, after a person has been in the program for a while, they are not progressing at the rate they should, and at some point a decision can be made that, you are not going to progress for a lot of different reasons.

So I do see that there could be possibilities where somebody would be let go during that period.

Mr. LAMBORN. Okay. Thank you for that clarification.

And this is more of a general question for whoever would care to address it. Why is there such a large increase in the number of issues submitted on each claim?

Mr. WALCOFF. Well, what we have seen is, the increase coming in on a lot of our original claims and they are coming in, primarily at our Benefits Delivery at Discharge locations. And I think that a lot of that is some of the counseling that goes on at those locations, the information that is available to the servicemembers when they are getting ready to get out.

And I think that, at that point, there is from the serviceman's point of view if there is a possibility that something, an injury or, something happened to me in service that possibly could affect me later on, I do think that there is some encouragement to apply, to get it in the records that, you know, you are saying that this is something that occurred in service and, there could be a situation where you might have that in the record if it flares up later.

You know, we have noticed a very, very significant increase. We are averaging on our BDD cases about 11 issues per claim. That is pretty significant.

Brad, you want to add anything on that?

[Mr. Mayes shakes head negatively.]

Mr. WALCOFF. Okay.

Mr. LAMBORN. Okay. Well, thank you for those answers, and I want to thank you all for your patience and for your testimony here today.

Mr. HALL. Thank you, Mr. Lamborn.

Mrs. Halvorson.

Mrs. HALVORSON. Thank you, Mr. Chairman.

It was said, Mr. Walcoff, in your testimony that 4,200 new employees have been hired since 2007. What percentage is that of the overall VA employment?

Mr. WALCOFF. We started with a base at that point of approximately 12,000, a little bit more than that. So 4,200 new employees, and then in addition to that we replaced anybody who left, which was about another 1,800. So what you are seeing that really since 2007 we have actually hired about 6,000 new employees, and that is not including the stimulus employees that we are going to be hiring, which is another 1,500 to 1,700.

So you can see that we have really had a lot of hiring activity in the organization which obviously causes a lot of, training that has to be done. There were a lot of space issues that we have had to work through, but we have been able to do that and we are starting to see real results from the new employees.

Mrs. HALVORSON. So the results are from 179 days down to 161 days but has there ever been a time when you actually were at your goal of 125 days?

Mr. WALCOFF. No, there hasn't been, and what I would say to you is that it takes 2 years to train a rating specialist or a VSR. So we are just seeing the first people that we began hiring in 2007 come to the point where we can expect them to be fully productive.

We have been hiring those 4,200 continuously over those 2 years. So every day that goes by, there is that many more that are becoming fully productive, which will increase our productivity.

Our production has actually increased by over 9 percent. And what I would also tell you, is that the 161.8 is a cumulative number for the fiscal year. The last 2 months, we have been in the 157 range. So there really has been significant improvement.

Mrs. HALVORSON. And then, how did you get to the 125? What made that the magic number?

Mr. WALCOFF. Well, we looked at what the requirements were by law for us to—in our duty to assist veterans in our development process. We looked at the various parts of the development that has to be done, including the exam that has to be ordered. We have to get private medical records. We have a responsibility to go out to get records that are within the custody of a government agency and go out as many times as necessary to get those records.

There are a lot of different things that we are required to do and we are required also to give veterans a certain amount of time to respond to us. If they don't respond after 30 days, we go out with another letter, give him another 30 days to respond. So when you add all those things up, we had to try to put together what would be a reasonable goal in terms of us having to reach a little bit and stretch a little bit, but also realistic within the requirements of the laws that we have to work under and that is how we came up with 125 days.

Mrs. HALVORSON. And one last question, Mr. Walcoff. You know, there has been a great deal of dissatisfaction with the AMC. Will you consider disbanding it as somebody else has suggested and replacing it, or placing the accountability back upon the regional office or the original jurisdiction?

Mr. WALCOFF. I don't believe that that is the right way to go. I think that with all the work that we have just been talking about that is out at the regional offices, to put those remands out there, I don't think would be the right way to go.

I can tell you that we have made significant changes at the AMC. We have added a lot of staff. We have made a change in the leadership of the office. And we are actually starting to see some improvements. And if you want, I can send you, you know, in the days ahead, I can send you some information about some of the improvements that have been made in terms of performance.

We do believe that we are starting to head in the right direction. It is going to take a little while. I understand the dissatisfaction that people have, but I do believe we are heading in the right direction.

Mrs. HALVORSON. Great. Yes. I think we would enjoy that.

Mr. Timberlake, Admiral, what is the personnel makeup of the IPO and how many of the VAs and DoDs, military, that sort of thing, and what is the background of all these individuals, to bring them all together?

Admiral TIMBERLAKE. Currently, the IPO will be lead by a Senior Executive Service (SES) from DoD, and a deputy would be an SES from the VA. Both of those positions are still in recruitment and so currently I have been brought on active duty to try to manage this thing while I get started.

We will then have a total of 14 government civilians, 7 of whom will be provided from the VA, 7 who will be provided from the DoD. Their specialties range from such things as financial analysts, budget analysts, health analysts, benefits analysts and program managers to help us evaluate the programs that are being conducted jointly between the two Departments.

We also have funding allocated to use from the Wounded and Injured Senior Oversight Committee to allow us during this interim time to hire contractors as we go about hiring the government civilians. You know, nominally when the people who first set up the office said, well, we think that is about 16 FTEs, some people get a little tied up on that number. It is more a matter of whether we have the wherewithal to hire additional contractor help we need as we start and set up the office.

Mrs. HALVORSON. Great. Thank you.

Thank you, Mr. Chairman.

Mr. HALL. Thank you, Mrs. Halvorson.

Just a couple more questions here. I am looking at the VA form 21-526, parts A, B, C and D, and picturing a veteran going through this and applying. It is fairly detailed and it is evident from reading this form that veterans probably do, and understandably, omit necessary information when sending it in. That probably happens on a fairly regular basis.

When the RO sends a statement of case back to the veteran to then complete the form, we require the RO to accompany it with

a simplified checklist called the “Duty to Assist” form. What is the status of the implementation of this form and do you feel as if it is too complicated for veterans and what more can be done to assist them in seeking their benefits?

Mr. MAYES. I will take that question, Mr. Chairman. I believe you are referring to the checklist that was a requirement as part of Public Law 110–389?

Mr. HALL. Right.

Mr. MAYES. Okay. We implemented that section back in December of 2008. We put out guides to our regional offices. That particular pilot, I believe, involves four stations.

And so, at those four stations, when we receive an Application for Benefits that meets the criteria as established in the law, when we send out our notice letter, which is required, again, by statute, what we do is we put what evidence and information is required of the veteran in a checklist, which is an attachment to the notice letter that goes out. So we have implemented that and we have also secured contract support from the Center for Naval Analysis to help independently evaluate the effectiveness of the pilot as stipulated in the legislation.

Mr. HALL. Thank you. And just reading page 6 here. It says that VA currently pays disability pensions to veterans who served during Mexican border period. Do you know approximately how many of those are currently receiving benefits?

Mr. MAYES. I don’t think very many, Mr. Chairman.

Mr. HALL. Maybe in updating this, you might want to look at that.

Mr. MAYES. Yes, sir. Understood. You know, I would point out that with the 21–526 application, a veteran can now submit electronically, through the Veterans Online Application (VONAPP), and we are working with a contractor right now to enhance that application to make it easier for a claimant to walk through that application. So we are trying to meet those needs and improve that application process.

Mr. HALL. In the strategic plan that you are developing for paperless delivery of benefits, I assume that there is an online version of this form for a veteran to fill out?

Mr. MAYES. Right now, today, you can go online and fill that application out, but we are undertaking with a contractor an effort to make it more of an interactive, guided process through the application so that it is easier, it is more of a question-response scenario that then takes you into more detailed questions based on some of those responses.

So, in essence, you are beginning to see some rules technology even in the application process.

Mr. HALL. That is great. That is really good to hear.

I understand the Lean Six Sigma is a business management strategy that was developed at Motorola to find deficits and ways to improve operations. The private sector has the ability to readily make those changes.

What is the Booz Allen Hamilton rationale that VBA can be that responsive to change making, and did they supply an implementation plan for the recommendations?

Mr. WALCOFF. The Booz Allen Hamilton report focuses on the process that we have been using, and Mr. Ratajczak referred to that, the CPI model, and really finds a lot of areas that, where because of the fact that files are being moved around the building because of the way the teams are set up, that there are a lot of inefficiencies in the process. And what they are recommending is a situation very similar to what Mr. Ratajczak talked about where the file would go to individuals who worked together on, I will call it a team. It is not that each individual does not have responsibilities. I know that you had some concerns about that, and we do to.

And it is clear that the individual would have certain responsibilities. But the fact that they are all working in the same location would, first of all, make it so that the file is not going all over the building as part of the assembly line. But also, that you would have a situation where you would be able to have the different components of the process working together in terms of exchanging information and that kind of a thing, which will, expedite the process and, provide a better quality product.

Now, in terms of implementation, it looks fine on paper, but I think the question that you asked, is the one we are asking, which is, okay, will this actually work in our environment versus an industrial environment, which it is more widely known for.

And that is why we are looking at doing a pilot in Little Rock. We are going through some of the contractual issues right now, but it looks like we are going to be able to at least, hopefully, start that pilot in July. And that will give a lot more information about the actual application of some of these principles.

Mr. HALL. Thank you. I understand that not every activity in your inventory is claims related. Some of it is related to adding dependents or answering letters and these all register as items of work in the workload. How are those other functions captured for employee work credits and how are they weighted? Does a different team handle the non-rating part of your workload, or is everyone expected to devote a certain amount of time to all of these tasks?

Mr. WALCOFF. It really depends on what type of action it is. Some of the non-rating work can be done in the triage team that comes in. Somebody is looking at it to try to determine where it goes. Some of the simpler actions are actually done right there on the triage team. Others are forwarded to post-determination. It depends on what the actual action is.

And I think that, I want to just clarify that really there are three levels of actions. You have the rating actions which are compensation and pension applications that we always talk about in terms of what we consider inventory. That is the 400,000. We have the non-rating, which are the dependency changes and the income adjustments and those types of things, and there are about 200,000 of those.

There is another 100,000 of things that I call miscellaneous actions that were lumped into this million and those are things like a letter that a veteran would write in just asking a question, a general question about his benefits.

The publications that I referred to were counting that letter as a claim, and I don't think under any definition that letter should be considered a claim. Certainly, the non-rating work, although we

don't consider it as part of the inventory that we talk about, is very important work that has to be done. And I want to emphasize that just because we don't talk about it as part of our rating inventory, doesn't mean that we don't realize that it is work. When a veteran wants to add a dependent, that is very important to the veteran himself, and we shouldn't be ignoring that.

All we are saying is, that we have prioritized getting the veteran on the rolls with his compensation claim, and then after we have done that, then we would talk about, as a second priority, adding a dependent to an existing record.

Mr. HALL. So just for the record, what would you peg as a number for what you consider to be a backlog at VBA?

Mr. WALCOFF. I would say that our backlog is, right now—about 150,000, 140,000. That is our backlog, and that is based on the rating inventory of cases that are over 125 days.

Now, if you want to add the non-rating, frankly I believe we should be doing non-rating cases in about 90 days. So if you said, well, I think that your non-rating should be considered as part of your inventory as well as your rating, then the backlog would be—and non-rating would be anything over 90 days, and I don't have an exact number for that right now. But non-rating actions should take less time than rating actions.

Mr. HALL. For the sake of discussion, regarding a veteran whose claim is up to a 125 days old, since it arrived into your system. In testimony presented in 2008, Professor Linda Bilmes from Harvard University noted that after a protracted process, 90 percent of veterans' disability claims are ultimately granted, at least in part.

Given that so many claims are eventually awarded, couldn't VA reduce its backlog and shorten the process for the veteran by assuming that the veteran's lay statement is accurate and consistent with time, place and circumstance, and as long as there is a diagnosis, grant the benefit?

Mr. WALCOFF. I will give you my personal reaction to this, and I don't know—you know, this question hasn't been officially asked of the agency in terms of what their position is.

Mr. HALL. Right.

Mr. WALCOFF. When Professor Bilmes says that 90 percent of claims are granted, what she is saying is, is that a veteran receives something. But as I mentioned to Congressman Lamborn, the average claim we get in through BDD involves 11 issues. All that the 90 percent means is that at least one of those issues we are paying the veteran for. That is how she gets to 90 percent.

If you evaluated by individual issues, the grant rate is 28 percent. So if you are paying on every issue, you are going to be overpaying on 72 percent of all issues. And I think, when looked at that way, it really calls into question whether that is a good policy or not.

Mr. HALL. If I could ask you one more question, Mr. Walcott. In March 2009, the Office of Inspector General (OIG) of the VA released a report on an audit of the VBA's STAR Program or quality assurance program. Besides finding that the National Error Rate was understated by 10 percent because STAR personnel did not identify errors that affect veteran's entitlement to benefits. It also found that the VBA excluded up to 126,000 brokered claims. Those

claims assigned from one regional office to one regional office, but sent to another for development or rating from the STAR review.

The OIG projected that 31 percent of these brokered files contained errors affecting veterans' benefits which resulted in an actual 69 percent overall accuracy rate for VBA which is far short, as you know, of your goal of 90 percent accuracy.

Clearly, these errors add to the backlog in some way, shape or form, either as reopened claims or appeals. So could you explain the STAR review process in general and elaborate on your response to the VA OIG's report. For instance, has it begun to sample brokered claims? Have you begun to sample brokered claims, something that VBA itself identified as a need in 2007? Have there been additional staff hired to deal with this or specific training requirements?

Mr. WALCOFF. My answer to that is, basically, I agree that—we all agree that brokered work should be sampled. I don't necessarily agree with the methodology that the OIG used to come up with the 31 percent, but I agree with their basic premise that we need to include brokered work in our sampling and we have begun to do that in response to the OIG audit. I believe that we have begun calling cases in that are brokered.

And I think with the number of brokered cases that we have, it is important to get an accurate representation of what that quality rate is. So we are doing it, sir.

Mr. HALL. Thank you. And just curious, you say, if I remember correctly, you are adding 80,000 new claims each month to the inventory?

Mr. WALCOFF. Eighty-thousand rating claims, yes.

Mr. HALL. Eighty-thousand rating claims. How many decisions on rating is VBA making each month?

Mr. WALCOFF. This year we are averaging, I believe it is about 78,000.

Mr. HALL. So you are pretty close to break even right now?

Mr. WALCOFF. Close, but the fact is that we want to bring the inventory down, so coming close or even being even is not what we want. We want the inventory to come down. We need to be able to exceed the receipts.

Mr. HALL. How many of your new employees who are becoming independent now, having been trained, how many per month are coming online, working independently?

Mr. WALCOFF. It is hard to say because they weren't hired on an even basis. In other words, we didn't hire, let us say, 200 every month. There were some months that we hired as many as 500. There were other months that we hired a lot less than that. A lot of it was trying to be able to schedule all of the training because we felt it was really important that every new employee go to Centralized Training within a certain number of weeks of when they start.

So, trying to get the space available, we added space to our training academy. It took a little while for that to be ready. So off the top of my head, I can't get you that answer, but I can certainly research it and get back to you after the hearing, if that is okay.

[The VA subsequently provided the following information:]

VBA conducts intensive training for all employees new to a job classification, with an emphasis on the VSR and RVSR positions (through programs such as Challenge, TPSS, etc.). Due to the complex nature of the duties associated with these job classifications, the training process is labor and time intensive, taking 24 months on average to achieve journeyman level and become fully productive. As of the end of July 2009, 46.4 percent of VSRs and RVSRs, or 3,430 employees, were journey level. Approximately 120 employees nationwide will progress from trainee status to journeyman status each month over the next 12 months.

Mr. HALL. That would be great, Secretary Walcoff. And I think, obviously, getting ahead of the—getting the number of monthly claims decided ahead of the number of new claims coming in is something that we will all be happy to see that point past. And the further we get past it, the more we can reduce the inventory.

And I would like to ask Admiral Timberlake if you can give me a mission statement for the IPO along with the goals and objectives that you intend to meet, how the Departments will manage the challenges that you enumerated in your testimony, and the time-frame for meeting those goals? Do you think you will meet the September 2009 goal for a fully interoperable electronic health records system?

[The DoD subsequently provided the information in the answer to Question #2 of the Post-Hearing Questions and Responses for the Record, which appear on p. 93.]

Admiral TIMBERLAKE. Yes, sir. We believe that the goal, which is to get the fully interoperable electronic health record required for the provision of clinical care as defined by our clinicians, the so-called ISIB, we believe we will meet that. Now, we are watching that closely. There is still some risk in a couple of the issues, but so far we seem to be on track. Yes, sir.

Mr. HALL. Thank you. That is good to hear. And I think we have a pretty good idea about new claims, about veterans, how we are handling or how you will be handling the claims of veterans who are returning from OEF/OIF or who are filing new claims as they are discharged from active duty. That should be much easier since both departments are operating in a computerized paperless—capable of operating in a paperless environment. So hopefully the two will be joined. The golden spike in the middle of the Transcontinental Railroad will be driven and we will celebrate the day when that handoff is happening for our current generation of veterans.

Regarding our Vietnam vets or World War II vets or Korean War veterans, is there a separate process and can you describe it to us, the approach in terms of—well, first of all, how feasible it is, are you triaging those cases or those times periods, those demographic groups and how can they be incorporated into this electronic system?

Mr. WALCOFF. The—and, Paul, I would ask you to jump in here. Right now, the plan is to go from a point forward, which would mean that any new claims that come in, when we get to the point when we are electronic, would be the first ones that would be scanned in, and we still do get original claims from Vietnam veterans, by the way.

At this point, and I would ask Dr. Tibbits to comment on this, I don't know of any plans to go back, for instance, to the Records

Management Center, where we have 20 million files, some of those going back quite a ways, and scanning all those records in. But let me ask Dr. Tibbits to comment on that.

Dr. TIBBITS. Well, Mr. Chairman, the foundation to that, actually, is to be able, from an electronic perspective, is to be able, electronically, to identify the veteran.

We have now, actually, a program that was initiated under Scott Cragg's tenure when he was in a prior position at the VA called a Common Population Initiative. To that end, we have actually, now, largely finished taking all of the veterans who became veterans before the Defense Department stood up the DEER System, which is their system to uniquely identify servicemembers.

We have identified those veterans. We have sent those veterans' names back to the Department of Defense. The Department of Defense has put the unique identifier on those veterans, called the Defense Enrollment Eligibility Reporting System (DEERS) Identifier, and sent those veterans with the DEERS identifier back to us electronically, so they are all now uniquely identified in one of our identification systems—it is called VA/DoD Identity Repository (VADIR)—as a foundation upon which we can build further capability over time, which if we progress backward and want to image their records, or whatever the process might be, that we would march backwards in time through all that legacy paper. The foundation of uniquely identifying those veterans electronically has already been laid.

Mr. HALL. And I assume that a veteran who has a new problem or a change in their claim or an application for increased percentage rating or a case that requires it to come to new attention could then be scanned and shared with another office or another specialist or selectively digitized?

Dr. TIBBITS. If I understand your question, this scanning notion would relate to the paperless initiative, and if we again, we extend backward in time, what I would say is, many of these visions that we want to achieve, these goals, depend on the concatenation of one or two or three systems working together.

So, yes, to your question. As paperless comes along, the ability to uniquely identify that veteran, put the correct identification on that scanned paper, the unique identification piece is there. As paperless comes along, it will connect to that and take advantage of that unique identification capability that we already have in place.

Mr. HALL. Okay. And so just so I understand, there would be sort of two worlds, the paper world and the paperless world, notwithstanding those that may be scanned, you know, from the paper legacy records, as you put it. And at what point, what date forward is the electronic record going to be the rule rather than the exception? And what from that date backward would be remaining in the paper domain?

Dr. TIBBITS. Well, as I said earlier, for the paperless initiative itself, we are committed to 2012, our date to deploy that in the VA. Now, Secretary Walcott, maybe Brad Mayes might want to talk about how we would selectively identify which veterans and which pieces of legacy paper would be included in that. That is a different

question and a different judgment process that would be based on the needs of the veteran and other considerations.

Mr. WALCOFF. Well, and let me say, first of all, that we are doing some work electronically. All of our BDD work at all of the BDD sites is electronic, and we are at the point now where we have been doing it for a long enough period of time that we are getting reopened claims from some of the people that we did their original electronically and we are doing those reopened claims electronically.

So as that group of people gets larger and more time goes by, we are going to get more reopened claims that we will continue to do in an electronic environment.

We do have some technical limitations in terms of how much work we can put in the current system. The virtual VA system was developed a long time ago, and there are some issues with the capability of it in terms of volume. That is not the permanent solution to where we are going to be in 2012. But it does limit us to a certain extent on how much we can do right now.

In terms of the question about how we would progress once we get to 2012, I would tell you that is the kind of thing that we are working on right now. That is the kind of thing we are working with Booz Allen Hamilton on as one of our consultants, to try to figure out that now that we are going to have this technology, what is the best way to use it.

And as we get those answers, I will be glad to share them with you.

Dr. TIBBITS. I guess I should add, Mr. Chairman, as we move forward in trying to better meet the needs of servicemembers and veterans in progressively greater electronic ways, the transaction volume, obviously, goes up and up and up and up. That serves to surface issues in the information technology infrastructure that need to get addressed; for example, where that infrastructure was put in place some years ago, not necessarily anticipating that increase in volume over time. And those are recurring challenges of the sort that Secretary Walcott is alluding to.

An anticipated issue will surface because the capacity here or the capacity there or the capacity somewhere else on infrastructure is not really what it needs to be to handle that additional volume. So there is an additional challenge to rectify this.

That requires some engineering. It requires some money. It requires some procurement actions, et cetera, et cetera. And it also requires that we become smart enough to get ahead of the curve so that our ability to anticipate transaction volume growth in the future is better than our ability to anticipate it has been in the past. And that requires strengthening of knowledge, skills and abilities with respect to capacity planning itself.

So there are a bunch of challenges in there that we have to deal with to support that growth in transaction volume. It is a big stress test for us.

Mr. HALL. Yeah, I am sure, I mean, at the rate technology is moving and the obsolescence of the latest personal digital assistant that you could buy, you know, 6 months from now, it is worthless and everybody wants a new one. But at the same time, a year ago last December, I was told by the commander of the hospital in

Landstuhl that we were a month away from his being able to hand off electronically the record of that veteran I am sitting, talking to, to VA.

And so I guess those patches between AHLTA and VistA have been more elusive than we would like.

Dr. TIBBITS. No, sir. The patches have actually been, I would say, if I can use my own words here, in my humble opinion, very effective. We are, in fact, exchanging more health care information between VA and DoD than any other two health care facilities in the United States. We are extremely successful at it.

That is not to say it is perfect. That it is not to say that there is not room for improvement. The fact that we are exchanging that health care information, before moving into a VLER construct, is also itself not accidental. In order to meet the immediate needs of servicemembers and veterans, information exchange between the two Departments is extremely important and much more important than collaboration on software development.

And because of that, because of the need to process claims, because of the need to deliver health care and because of the importance of information exchange to do that, we elected to pursue information interoperability first and, hence, there is this very robust exchange of information between the two Departments now, and I think is why Admiral Timberlake, rightly expressed that he has a great deal of confidence that we will meet the September 2009 date because, by and large, we are already there now.

So there are only a few marginal things that have to be added between now and the end of the fiscal year. By and large, primary care and most specialty care could be delivered by a clinician today, based on the health information that is exchanged between the two Departments.

Mr. HALL. Boy, that is really, really good news.

Dr. TIBBITS. Yes, sir. It is very good news.

Mr. HALL. I am glad I asked that many questions that we got that answer. I mean, because 2012 sounds like an awful long way off. And what I am hearing is that 2012 is when it is going to be robust and complete and really completely up and running, but even today, a lot of the pieces are in place.

Admiral TIMBERLAKE. We are talking about apples and oranges. 2012 is related to the paperless initiative, which is dealing with all of the incoming—

Mr. HALL. Benefits.

Admiral TIMBERLAKE [continuing]. Paper that goes to VBA from veterans to initiate a claim. That is different than the information I am talking about here, which is the health information that is being exchanged between the two Departments. Two different—

Mr. HALL. Well, that is—I understand. And we probably would all agree that the health information is the most important thing, and the veterans, especially those suffering serious injuries, would agree with that, but the disability claim is built on, among other things, the health record.

So thank you for that information and thank you for the—I appreciate that this is an evolving piece of work. I would be looking for—we on the Committee look forward to seeing the Booz Allen

Hamilton report as soon as you can share it with us. And if we have any further questions, we will submit them in writing to you.

Thank you, again, for your patience and for all the work that you are doing for this Nation's veterans.

Secretary Walcott, Director Mayes, Mr. Cragg, Dr. Tibbits, Admiral Timberlake, thank you, again. And you are now excused. This hearing is adjourned.

[Whereupon, at 9:15 p.m. the Subcommittee was adjourned.]

## A P P E N D I X

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### Prepared Statement of Hon. John J. Hall, Chairman, Subcommittee on Disability Assistance and Memorial Affairs

Good Morning Ladies and Gentlemen:

Would you please rise for the Pledge of Allegiance?

The members of the Disability Assistance and Memorial Affairs Subcommittee convene today to conduct an oversight hearing entitled, ***“Addressing the backlog: Can VA Manage One Million Claims?”***

Here are some basic facts that I would like take a moment to reflect upon today as we begin this hearing on the VA backlog.

There are 23.5 million veterans living in America. One thousand World War II veterans die every day. VA hospitals treated five million veterans last year, but over 500,000 non-service connected veterans were denied that care. There are three million service-connected disabled veterans.

And now, there are almost one million veterans waiting.

They are waiting to have their claims and appeals processed. They are waiting for compensation. They are waiting for medical assistance and rehabilitation. They are waiting to take care of their families. They are waiting for a Nation to be grateful.

I, for one, believe that they should not have to wait. During the 110th Congress, I convened fourteen hearings on disability claims and appeals processing issues and this is our fourth hearing this year on the subject.

Additionally, my colleagues in Congress did not believe our Nations’ veterans should have to wait when they enacted Public Law 110–389 in October 2008—essentially mandating that VA modernize its disability claims processing system. Congress supports and continues to monitor VA’s efforts to expedite claims, improve quality, update its rating schedule, and use the most advanced technology available. We have authorized the hiring of additional benefits personnel and have passed more generous budgets for VA than ever before. And still, the backlog grows and veterans wait.

There must be a way to stem this tide. VA requires a cultural and management sea change that can come about if it embraces the provisions of the law and looks to its stakeholders to inform its policies and procedures. As Chairman of this Subcommittee, I believe we have given VA the tools and the authority it needs to take the necessary steps to bring about the transformation Secretary Shinseki has evoked since stepping into the leadership of VA. I look forward to hearing about its plans to implement the claims processing improvements we outlined in the 110th Congress in P.L. 110–389, the Veterans Benefits Improvement Act of 2008 that should help in this regard.

I am optimistic that today’s witnesses can further direct us toward a way forward. I regret the Hamster-wheel effect that two of the witnesses on the first panel have faced in their own efforts to secure the benefits and the assistance that they seek from their government. I offer my apologies for all of the waiting.

I know the American Legion, VFW, and DAV have worked diligently along with the other VSOs to address the disjointed practices that exist within VA that led to this growing backlog. I am eager to hear from the AFGCE and the newly formed Disability Compensation Advisory Committee and I put much hope in your work and its progress. I also look forward to hearing from VA. I know that your claims processing production has improved—I applaud you for managing the resources Congress has given you to make this improvement. I also know that the 1 million claims figure reflects all of your inventory—not just compensation and pension and not just backlogged claims. These facts notwithstanding, Congress, veterans and other stakeholders want to know what is VA’s strategy for handling a workload of 1 million claims in a 21st century manner.

Finally, I thank VA and DoD for being here today to update the Committee on its progress in implementing Public Law 110-389 and the formation of the Inter-agency Program Office mandated by the NDAA along with President Obama's VA/DoD Joint Virtual Lifetime Electronic Record initiative.

If we can accomplish the tasks already set in motion, it is my hope that VA will transform into a 21st Century, customer-focused system that can in fact process 1 million claims accurately and timely. One where veterans and their families no longer have to put their lives on hold while waiting for the much needed assistance they deserve.

I now yield to Ranking Member Lamborn for his opening statement.

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**Prepared Statement of Hon. Doug Lamborn, Ranking Republican Member,  
Subcommittee on Disability Assistance and Memorial Affairs**

Thank you Mr. Chairman,

Thank you for holding this hearing to discuss VA's disability claims processing system and its ongoing efforts to improve timeliness and accuracy.

The struggle to overcome the backlog of disability claims has weighed upon the Department for several years now.

Despite multiple hearings on this issue, as well as significant increases in VA's budget, workforce, and information technology resources, signs of progress are subtle at best.

We've addressed this situation from multiple angles:

- Funding for VA programs have increased steadily since 1995.
- There's been a seventy-five percent increase in the number of full time claims workers in the last 5 years.
- We've made a strong push toward modernizing the VA claims system so that it is electronic rather than paper-based.
- And we've emphasized and reemphasized the need for training and accountability.

Yet, VA seems to be overwhelmed, and it is well past time for frank assessment of what is going on.

VA needs to be very candid and forthcoming about what it sees as the problem, otherwise we cannot help fix it.

I understand that along with aforementioned increase in funding, VA is receiving a record numbers of claims, along with an increased number of complex issues on each claim.

While these factors obviously pose a challenge, I do not see them as insurmountable.

I believe that VA has the resources and authority necessary to adjudicate claims quickly and accurately, and I expect it to do so.

If this is a misperception, I must know why.

Every one of these claims represents an American veteran; their patience and mine is growing very thin on this issue.

If we do not fix this problem now, and merely pass it on to a future generation, we will all be very much ashamed, and deservedly so.

I'm certain everyone here shares my frustration, so lets put the cards on the table and figure out what we can do.

I want to thank the witnesses for their service and their testimony, and I look forward to our discussion today.

Mr. Chairman, I yield back.

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**Prepared Statement of Ian de Planque, Assistant Director,  
Veterans Affairs and Rehabilitation Commission, American Legion**

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to present The American Legion's views on the Department of Veterans Affairs (VA) backlog and VA's claims processing system.

***Claims Backlog and Staffing***

In Fiscal Year (FY) 2008, more than 2.95 million veterans received VA Veterans Benefit Administration (VBA) disability compensation benefits. Providing quality de-

cisions in a timely manner has been, and will continue to be, one of VA's most difficult challenges. A majority of the claims processed by the VBA's 57 Regional Offices (ROs) involve multiple issues that are legally and medically complex as well as time consuming to adjudicate.

As of June 6, 2009, there were 722,901 claims pending in VBA, 409,362 of which are rating cases. There has been a steady increase in VA's pending claim backlog since the end of FY 2004 when there were 321,458 rating cases pending. At the end of FY 2008, there were more than 390,000 rating cases pending in the VBA system, with an increase of 14,000 from FY 2006. Of these, more than 85,000 (22.1 percent) were pending for more than 180 days. Including non-rating claims pending, the total compensation and pension claims backlog were more than 624,000, with over 20 percent of these claims pending more than 180 days. There were also more than 183,000 appeals pending at VAROs, with more than 167,000 requiring some type of further adjudicative action. Since the beginning of this year, the number of appeals has grown by almost 10,000.

The American Legion National Staff has interviewed regional office employees during quality review visits with the consistent complaints among Regional Office employees being: Inadequate staffing levels, inadequate continuing education, and pressure to make quick decisions, have resulted in an overall decrease in quality of work. It is an extreme disservice to veterans, not to mention unrealistic, to expect VA to continue to process an ever increasing workload, while maintaining quality and timeliness, with the current staff levels. The current wartime situation provides an excellent opportunity for VA to actively seek out returning veterans from Operation Enduring Freedom and Operation Iraqi Freedom (OEF/OIF), especially those with service-connected disabilities, for employment opportunities within VBA. Despite the recent hiring initiatives implemented to provide additional staffing, viewed by many as a "surge" tactic, ROs will need to continue the hiring of additional personnel given to meet current and projected future workload demands.

The American Legion is also concerned with the retention of newly hired and trained claims adjudicators. Repeatedly, The American Legion has asked the question—what is the attrition rate of newly hired claims adjudicators? Mr. Chairman, the silence is deafening. This is an area The American Legion believes should be exploded. Hiring new personnel is great, but if their tenure with VBA is short-lived (3 years or less), then retention of experienced claims adjudicators may very well continue for years to come.

Through this process, VBA must be required to provide better justification for the resources it says are needed to carry out its mission and, in particular, how VBA intends to improve the level of adjudicator training, job competency, and quality assurance. Each of these topics will be discussed in greater detail below.

#### ***Production vs. Quality***

Since 1996, The American Legion, in conjunction with the National Veterans Legal Services Program (NVLSP), has conducted quality review site visits at more than 40 regional offices for the purpose of assessing overall operation. This Quality Review Team visits a regional office for a week and conducts informal interviews with both VA and veterans' service organizations' (VSO's) staff. The Quality Review Team then reviews a random sample of approximately 30–40 recently adjudicated American Legion-represented claims. The Team finds errors in approximately 20–30 percent of cases reviewed.

The most common errors include the following:

- Inadequate claim development leading to premature adjudication of claim;
- Failure to consider reasonably inferred claims based on evidence of record;
- Rating based on inadequate VA examination; and/or
- Under-evaluation of disability (especially mental conditions).

These errors are a direct reflection of VA's emphasis of quantity over quality of work. This seems to validate The American Legion's concerns that emphasis on production continues to be a driving force in most VA regional offices, often taking priority over such things as training and quality assurance. Clearly, this problem frequently results in premature adjudications, improper denials of benefits and inconsistent decisions. These issues all contribute to claims remaining in the system far longer than is necessary.

#### ***Training***

Proper mandatory training is a key factor in the quality of VA regional office rating decisions. The Board of Veterans' Appeals (BVA) combined remand and reversal rate (over 55 percent) of regional office decisions for FY 2008 is a direct reflection of the lack of importance placed on training by the VAROs. Our Quality Review

Team site visits have revealed that, at many regional offices, there have been too few experienced supervisors that could provide trainee adjudicators proper mentoring and quality assurance. In addition, at many stations, ongoing training for the new hires, as well as the more experienced staff, would be postponed or suspended, so as to focus maximum effort on production.

Many ROs are receiving an influx of additional personnel. At a large number of ROs, as much as a third or more of the staff has less than 3 years of experience. This is due to regular job turnover, but also the recent measures to ensure adequate staffing that have created so many new positions.

There is no time better than the present to ensure that the training is first rate. With so much staff in the earliest portion of their VA tenure, the opportunity to instill, with proper training, the skills to create and sustain a first class workforce for the foreseeable future of VA is at hand. As new employees learn to administer the system and adjudicate benefits, let them learn to do it right. Attention to training at this stage will reap only positive benefits down the road as the new, core nucleus of VA employees is formed. We are building VA not just for today, but for the future, and attention to the building blocks in the foundation now will prevent catastrophic failures and instabilities down the line.

Consistency in training remains problematic. Each of VBA's 57 ROs appears to have a different approach to training and each also differs in the importance placed on training. According to a May 2005 report from the VA Office of the Inspector General (VAOIG), based on a survey of rating veterans' service representatives (RVSRs) and decision review offices (DROs), the respondents expressed positive opinions regarding the quality of their training, but the overall response indicated that training did not receive high priority. Although this VAOIG's survey is now more than 4 years old, our Quality Review Team still hears similar comments when talking to service center staff during our site visits.

Some stations have regular formalized or structured training programs, while others have training programs that are best described as more informal and sporadic. Some stations have well established and structured training for new employees, but ongoing training for experienced staff is very limited.

The VAOIG also recommended that a scientific study be conducted to further examine the variances in disability payments. VA subsequently contracted the Institute for Defense Analyses (IDA) to conduct the study. IDA released its report in 2007, noting that although VBA provides centralized training modules for training purposes, many ROs supplement this training with material developed locally. IDA also found that many rating specialists interviewed stated that they received "on-the-job" training from senior raters and identified these individuals as the biggest influence on their rating styles. IDA suggested that a "stronger mechanism" would reduce the potential for persistent differences among regional offices in ratings and ensure that raters VA-wide are receiving the same training. IDA further recommended that raters be given standardized test cases, reflecting the most likely areas of variation, as part of an ongoing training process.

We are also aware of the centralized training program that has been implemented; however, a national training standard/requirement, in addition to the centralized training conducted by Compensation and Pension (C&P) Service, for RO personnel is also needed. Consistent and standardized training at each regional office must take place for all personnel—experienced and new hires alike. The American Legion believes it is crucial that such a program be implemented and closely monitored for compliance by the Under Secretary for Benefits. Management in stations, not in compliance with such training requirements, must be held accountable; otherwise, any national or centralized training effort will not be successful.

Additionally, The American Legion believes it is essential to proper training that information (reasons for remand or reversal) from BVA decisions, DRO decisions and errors noted in the National Systematic Technical Accuracy Review (STAR) and other internal quality reviews be tracked and examined for patterns. This information should then be used in mandatory formal training to ensure that common errors and other discrepancies occurring in regional office rating decisions are not repeated. This information should also be used for remedial training purposes when patterns of errors are identified for specific individuals. Although such data is currently being collected and disseminated to the ROs, it appears that consistent utilization of this data in regular formalized and specific training is lacking.

The American Legion must stress that unless ROs (both managers and individual adjudicators alike) learn from their mistakes and take corrective action, VA will continue to have a high rate of improperly adjudicated claims, which result in a consistently high appeals rate and subsequent high BVA remand/reversal rate.

### ***Performance Standards***

Performance standards of adjudicators and rating specialists are centered on productivity as measured by work credits, known as “End Products.” Both veterans’ service representatives (VSR) and RVSRs have minimum national productivity requirements that must be met each day. Some stations also set their own standards, based on their claims backlog and other station specific requirements that are over and above the national requirement. Despite the fact that VBA’s policy of “production first” has resulted in many more veterans getting faster action on their claims, the downside has been that tens of thousands of cases are prematurely and arbitrarily denied. Approximately 65 percent of VA raters and DROs surveyed by the VAOIG, in conjunction with its May 2005 report, admitted that the raters did not have enough time to provide timely and quality decisions. In fact, 57 percent indicated that they had difficulty meeting production standards if they took time to adequately develop claims and thoroughly review the evidence before making a decision. Unfortunately, even though 4 years have passed since the release of this report, its findings are still consistent with what our Quality Review Team has reported from recent interviews with regional office service center staff.

Unfortunately, the End Product work measurement system essentially pits the interests of the claimant against the needs of VA managers. The conflict is created because the ROs have a vested interest in adjudicating as many claims as possible in the shortest amount of time. Awards and bonuses are often centered on production rather than outcomes. This creates a built-in incentive to take shortcuts so that the End Product can be taken. The system, in effect, rewards ROs for the gross amount of work they report, not whether the work is done accurately or correctly, often resulting in many claims being prematurely adjudicated. These problems are caused by inadequate development, failure to routinely identify all relevant issues and claims and/or ratings based on inadequate examinations. Even the VAOIG acknowledged that because the VA often does not take the time to obtain all relevant evidence and information, there is a good chance that these claims are not properly adjudicated.

This is underlined by the findings of The American Legion’s Quality Review visits, which can be revelatory in their candid commentary with VA staff and personnel. Time and time again, VA employees express frustration with their ability to balance their time to properly review a case file against the meeting of production standards. One veteran VA rater indicated a thick file, not atypical of the claims process, several inches thick and containing hundreds of pages of medical records. “This file . . .” the rater stated, “I have 2 hours to review this file [indicating the standard requirement of 3½ claims processed per day]. How do I give that veteran justice?” This is not an uncommon refrain.

This ultimately creates a desire to claim quick End Product credit. The result has been a traditionally high remand rate by BVA and the Court of Appeals for Veterans Claims (CAVC). The American Legion believes that VBA management is reluctant to establish a rigorous quality assurance program to avoid exposing the longstanding history of the manipulation of workload data and policies that contribute to poor quality decisionmaking and the high volume of appeals. VBA’s quality-related problems and the fact that little or no action is being taken to prevent or discourage the taking of premature End Products have been longstanding issues for The American Legion. The current work measurement systems, and corresponding performance standards, are used to promote bureaucratic interests of regional office management and VBA rather than protecting and advancing the rights of veterans. The End Product work measurement system, as managed by the VA, does not encourage regional office managers to ensure that adjudicators do the “right thing” for veterans the first time. For example, denying a claim three or four times in the course of a year before granting the benefit sought allows for a total of FIVE End Product work credits to be counted for this one case, rather than promptly granting the benefit and taking only one work credit.

In the view of The American Legion, the need for a substantial change in VBA’s work measurement system is long overdue. A more accurate work measurement system would help to ensure better service to veterans. Ultimately, this would require the establishment of a work measurement system that does not allow work credit to be taken until the decision in the claim becomes final, meaning that no further action is permitted by statute whether because the claimant has failed to initiate a timely appeal or because the BVA rendered a final decision.

### ***Immediate (Non-Legislative) Remedies to Reduce Claims Backlog***

Greater emphasis should be placed on conducting triage to identify and expedite claims that are substantially complete (very little or no development needs to be completed in order to rate the claim) at the time they are submitted. Then C&P

exams should be ordered as soon as possible in cases where the only development that is needed in order to rate the claim is an exam. Although there are mandatory notification requirements under the VCAA, VA can streamline its waiver process in those cases where the claim is substantially complete and/or veterans do not have any additional evidence to submit. This would allow VA to proceed with the adjudication process in a timely manner without having to wait for the expiration of the time period for a veteran to submit additional evidence or otherwise respond to the VCAA letter.

The aforementioned process should also be applied in claims with multiple issues in order to provide claimants with access to VA health care and compensation, while VA continues to work those issues that are more complex or require significant development. Issues that are substantially complete and essentially “ready to rate” at time of submission should be so identified and expedited in order to avoid delay that would result if adjudication was put off until all issues were ready to rate. Issues that are more complex or require significant development should be deferred for rating upon completion of required development.

VA often receives claims that contain evidence sufficient to establish service-connection and also sufficient medical evidence to properly rate the current severity of the condition under the applicable diagnostic code. In most, if not all of these cases, VA, as matter of routine, schedules an exam even though it has sufficient evidence to not only establish service-connection, but also sufficient evidence to properly rate the condition under the applicable rating criteria.

Perfect examples of this are claims of entitlement to service-connection for type II diabetes based on the Vietnam Agent Orange (herbicide) presumption. If a veteran diagnosed with type II diabetes meets the Vietnam service requirements, exposure to herbicides is conceded and entitlement to service-connection is automatically established, if the condition developed to a degree of 10 percent or more disabling during the applicable presumptive period and rebuttal of service-connection, in accordance with 38 CFR §3.307, was not accomplished. In type II diabetes cases, the treatment notes (either private or VA) more often than not contain sufficient medical information to properly rate the current severity of the condition under the VA Schedule for Rating Disabilities, negating the necessity of a VA examination. However, if a VA examination is necessary to address secondary conditions, such issues can be deferred and addressed at a later date thereby allowing for the immediate rating of the type II diabetes, and commencement of compensation benefits, without delay. Unfortunately, the routine scheduling of (unnecessary) examinations in cases such as this where there is sufficient evidence of record to establish service-connection and to properly rate the condition can result in 1 to 3 month delays in adjudicating the claim. The American Legion, therefore, recommends establishing specially trained triage teams to identify such claims.

VA could also explore another option that involves cases where there is sufficient evidence to establish service-connection, but an exam is needed to accurately rate the current severity of the condition. In these cases, VA could grant service-connection, establish a baseline evaluation based on the medical evidence of record, and then go back later and conduct an exam to establish current severity of the condition. Such a process would quickly establish service-connection and, as a result, VA health care eligibility, and generally provides the claimant with payments in a timelier manner.

### ***Brokered Claims***

In an effort to help balance its claims backlog across regional offices, VBA established a “brokering” program where it transfers claims from the regional office of jurisdiction to another regional office to be adjudicated. The idea behind brokering cases is to provide assistance to regional offices with large backlogs by having another regional office rate a specified number of its claims each month. Regional office employees and VSOs located at regional offices that broker work to other offices have consistently voiced concern about the quality of the brokered work, to our Quality Review Team during site visits. There seems to be a common consensus among VA and VSO employees, interviewed by our Quality Review Team that regional offices working brokered claims do not have a vested interest in the brokered claim as it is not under their permanent jurisdiction, nor will they have to deal with subsequent appeals. The frequency of errors found in brokered cases reviewed during The American Legion Quality Review Team site visits supports this concern.

Unfortunately, although VBA does not have a mechanism in place to monitor the quality of brokered work; VBA management continues to tout this program as an effective case management tool. Although this program may be a necessary short-term solution for regional offices unable to effectively manage current workloads, it does not address the staffing and other resource deficiencies that resulted in the

need for work to be brokered in the first place. VBA management should not continue to rely on brokering as a permanent solution to addressing its claims backlog, but should focus on ensuring that its regional offices have adequate staffing, training, and other resources in order to properly manage their own workloads and eliminate the need for brokering altogether.

### **Conclusions**

The best way to help veteran claimants is to fix the entire VA claims adjudication system. This is not a time to repeat errors of the past and continue to throw augmented numbers of the same resources at the problem. Such an approach will only reinforce the errors and flaws which led us to this precarious position. What is called for is a fresh look at the system, an examination of the root causes that put the veterans of this country in such a dire state.

Piecemeal solutions do not work and should be avoided. It is essential that the VA work measurement system be changed so that VA regional offices are rewarded for good work and suffer a penalty when consistent bad decisions are made. Managers, rating specialists and BVA law judges and attorneys should be rewarded for prompt careful work and they should also be penalized when they make bad decisions. If we want to preclude an ever growing mountain of claims continuing to back up in the system, we need to ensure that we are providing a system that rewards getting it right *the first time*. American veterans seeking VA disability benefits deserve better treatment than what they are currently getting from VA.

Thank you again, Mr. Chairman, for allowing The American Legion to present comments on this important matter. As always, The American Legion welcomes the opportunity to work closely with you and your colleagues to reach solutions to the problems discussed here today, solutions that are in the best interest of America's veterans and their families.

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### **Prepared Statement of David Bohan, Gladstone, OR (Gulf War Veteran)**

Mr. Chairman, Members of the Committee, thank you for the opportunity to appear today on behalf of America's veterans, including the veterans of the first Gulf War with whom I served. The topic which you are addressing today—the VA's ability to handle the claims backlog—is very important to all of us who serve.

I am David Bohan. I joined the U.S. Army right out of high school in 1987 and served with the 2nd Battalion of the 16th Infantry Division in the Gulf War. As some of you may know from the current series in *The American Legion Magazine*, our outfit was first across the breach in the ground war. My platoon refueled the M-1 tanks on the frontlines. We hauled tank trucks full of fuel across the desert to the tanks, despite cluster mines and Scud missile attacks. You don't forget the feeling you get when the Iraqi Army sends a Scud into your camp. I received the bronze star for my noteworthy actions.

I served 6 years and left Fort Riley, Kansas the moment my discharge was completed in December 1992. Like thousands of other Gulf War One veterans, I was not offered any transition assistance programs when I was discharged. No one suggested that I get copies of records of any medical treatment I received in the military. There was no mention of VA benefits of any kind, whether you are talking about hospital care or counseling for Post-Traumatic Stress Disorder. All I wanted to do was get home to Oregon as quickly as possible. This has continued to cause problems for me and my ability to get VA benefits.

I spent most of the next 15 years trying to erase my memories of the war with alcohol. Those were terrible years. Nothing worked. I had jobs at a variety of freight companies. I was married and divorced. Most of all, I drank. This was all very hard for my family, but my mother and father stood by me. I didn't realize it at the time, but I had severe Post-traumatic stress disorder.

After an automobile accident involving a police officer last year, where luckily no one was injured, I realized I had to stop drinking. I checked myself into the Roseburg, Oregon VA Medical Center's inpatient alcohol treatment program. I've been clean and sober ever since and I'm managing an apartment complex for my father. I'm lucky. Many veterans do not have the fantastic family support that I have. I don't know where I would be today without them.

A counselor at the VA in Roseburg suggested I pursue a claim for my PTSD and for injuries to my left foot during the time I was stationed at Fort Riley, Kansas and recommended I contact the American Legion for help.

The VA system is confusing, overwhelming and is not at all friendly to veterans.

So many of the people at VA are not veterans and don't understand what we are going through. You end up feeling like some of them care more about their rules and regulations and paperwork than they care about the veterans.

We veterans don't have any idea where this piece of paper or that record is after all of this time. Regarding military records we veterans don't have any idea where our records are kept and apparently the military doesn't know either. I was up late at night, digging through boxes, looking for records to prove I was in the Army, that I was in the Gulf War, and that I had been in combat and that I had all of the necessary stressors to qualify for VA assistance. The memories that going through all of those materials from my Army days was very painful.

With the help of American Legion Service Officer Gregg Demarais, I received a PTSD rating from the VA. But the issues with my foot have not yet been addressed. My medical records from Fort Riley are missing. I've spent hours on the telephone, I've sent faxes and I've sent e-mails. But after months of trying, no one can find my records. The hospital at Fort Riley says they do not have the records of the surgeries on my foot. I have contacted the National Personnel Records Center in St. Louis many, many times. But I still do not have the records of the multiple surgeries on my foot. Until I can obtain those records and present them to VA, I cannot pursue the rest of my case.

This is very frustrating and very time consuming. I understand why so many people just give up. We need to better assist veterans in need. There needs to be improvement in the communications between VA and other agencies in tracking down records. Whether it's through technology or something else, they need to be able to do it faster and more accurately so that they can avoid situations that cause needless delays by sending requests back and forth, over and over again, with no answers to provide to veterans.

The system CAN work however. Now that I am finally in the VA health care system, some good things have happened. Doctors operated on my arm and repaired nerve damage and restored feeling to my fingers. I'm enrolling in college right now and I'm going to pursue a business degree. I also try and help my fellow veterans get enrolled in the VA system, and, when they need it; get into a drug and alcohol treatment program. I am happy to use my experiences to help, but I see many veterans go through the same frustrations that I have gone through.

I'm proud of my service and I'm grateful for the assistance I have received. But there has to be a way to make this easier for all of us.

Thank you again for the opportunity to testify today. I look forward to any questions you may have.

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**Prepared Statement of Robert Jackson, Assistant Director, National  
Legislative Service, Veterans of Foreign Wars of the United States**

MR. CHAIRMAN, RANKING MEMBER LAMBORN AND MEMBERS OF THE  
SUBCOMMITTEE:

Thank you for the opportunity to provide testimony before this Committee on the VA claims processing system. The 1.8 million men and women of the Veterans of Foreign Wars of the U.S. appreciate the voice you give them at these important hearings.

Mr. Chairman, I have worked for the VFW approximately 18 months. When I began working in my current position, a VFW colleague welcomed me, handed me a copy of the VA's rating schedule, and explained that I would need to become acquainted with the material in order to understand how the VBA goes about conducting its business. I am sure you are all familiar with this thick manual and no doubt understand the instant panic that set in as I began thumbing through the pages.

"How on Earth can anyone make sense out of this?"

I imagine that a newly hired VA rating specialist probably feels pretty much the same way on their first day, understanding that he or she will have to spend a good 2 years of training and referring to this manual (and other VA regulations), and at least another year getting comfortable with the VA claims system to get to the point to where the rating specialist becomes somewhat proficient in assessing veterans claims. I note this because I believe it is important to understand that simply increasing the number of VA rating specialists (as the VA has done over the past couple years) will not significantly reduce the claims backlog in a fashion considered timely by this Committee, the VSO representatives at this table, and most importantly the very veterans this system was developed to serve. I use this example as

a starting point in order to advance our discussion to what I believe is a self-evident truth:

***There is no quick fix to VBA ... only the opportunity for steady and deliberate improvement.***

***There is No Magic Bullet***

Perhaps it is time we recognize that the world has changed. There has been a silent paradigm shift over the past 30 years. If for no other reason than judicial review, the Veterans Claims Assistance Act (VCAA) and the budgetary environment that exists today, it may be time to acknowledge that the VA cannot be staffed at such levels as will allow it to produce quality decisions in the same period those earlier generations of VA workers achieved.

The converse of this may be to acknowledge that the better production and timeliness levels achieved in the 1950s and '60s may very well have been accomplished because there was *less* attention paid to procedural rights and that the VA may have exhibited a rather *cavalier* attitude when it came to interpreting the law and its own regulations.

Whether you agree with either view of history, the initial point remains; the world in which the VA operates has changed and it may no longer be realistic to expect accurate benefit decisions in a short period of time. There are still things that can be done to improve production, reduce backlogs (although perhaps not at the rate we all would like to see) and ensure claims are completed with quality.

***Getting it right the first time***

We believe the greatest benefits can be found by fixing the front end of the claims operation. Most court decisions today focus on procedural problems stemming from notice to claimants and development, or failures to properly develop evidence. The VCAA was created because VA would sometimes take shortcuts in the claims development period, failing to give claimants adequate notice of what they needed to produce to prove their claims. However, as we have seen since its passage, it is quite possible to become bogged down in the notice requirements while attempting to dot every "i" and cross every "t".

We support the VCAA because we believe it helps level the playing field for veterans. The VA has the knowledge of what is required in order to grant or increase benefits to veterans. They are required to pass that knowledge on so that claimants know, too, and can focus their energies in obtaining the necessary evidence to perfect their claim.

This is not rocket science. If a veteran claims service connection for the residuals of a knee injury, the VA can tell her that she needs to show that she has a disability of the knee now, that she injured the knee in service or something that happened in service caused a knee problem and to provide VA with medical evidence that shows the current problem to be related to the event in service. These are the same three things that have always been required to prove service connection.

The requirements for obtaining an increase in benefits are equally finite: a claimant must show that their service-connected disability has worsened sufficiently to obtain a higher evaluation. In order to obtain an increase for that knee problem, the veteran must show the existence of arthritis in the joint which limits motion or causes pain, or demonstrates instability in the joint.

Again, this is not rocket science. Software could be developed that allows a VSR in a Pre-Determination team to simply answer a question on a computer screen concerning whether the claim is for service-connection or an increase and what the claimed condition is. Now, as you suspect, the computer can generate paragraph after paragraph explaining what is required and if the veteran is claiming 12 conditions then the letter can become quite long. Yet, if the object is to ensure that claimants have the information necessary to perfect their claims then it can be done with properly programmed computers. Further, these software programs can be made available to claimants in a simple, easily accessed, public Web site. Any curious veteran could enter the Web site, answer a series of simple questions and receive detailed information on what is needed to obtain the benefit.

***Technology, technology, technology***

We have testified before this Committee in the past, and continue to believe, that if VA takes advantage of the rapid advances in technology they will be able to create efficiencies that currently do not exist. For instance, the VA currently has thousands of all electronic claims files. These cases are largely Benefits Delivery at Discharge (BDD) cases and the electronic claims files offer VA a unique opportunity to create a separate office to handle all electronic claims, allowing the VA to experiment and create an environment unencumbered by paper files. Imagine the possibility of hav-

ing two or three Rating VSRs located in separate sections of a building reviewing one claims file and making decisions on different elements of the claim simultaneously. The efficiencies that such a system creates could be significant.

We understand that VA is establishing a claims processing laboratory in Providence, RI to explore and develop these efficiencies. We welcome this effort and look forward to viewing the results of this work in the years to come.

What about the millions of existing paper claim files? VA rightfully believes that copying these files would be cost prohibitive. We agree. However, VA receives thousands of requests each year for copies of claims files. Currently each file is photocopied and sent to the claimant. What if each office was equipped with a scanner so that instead of photocopying the file, it is scanned. The claimant would still receive a paper copy of the file and at the same time, the VA would have yet another electronic record.

### ***Back to the Future***

Within 2 years of the conclusion of World War II, more than 16 million service men and women were released from active duty. Millions filed claims with VA for compensation. Why wasn't the VA overwhelmed? There are numerous answers to the question, including:

- Veterans claimed fewer disabilities than at present.
- There were no due process requirements in the law and VA procedures required little more than acknowledgement of a claim and notice of the final decision.
- VA was not obligated to help veterans obtain private records.
- VA could and did make decisions after receipt of service medical records but before all records were received. When additional records were received, VA reviewed those records in context with other evidence of record and made a new decision.
- VA frequently evaluated disabilities based on service discharge examinations.

All of these facts allowed the VA to make claim decisions quickly. Reexaminations were frequent and allowed VA to increase or reduce evaluations as disabilities worsened or improved.

Today, claims development takes longer. Quite simply, Congress recognized that past procedures and practices by VA were not always veteran friendly, did not adequately tell veterans what was needed and often led to decisions based on less than all the available evidence. Decisions are longer because Congress decided that veterans should be told what evidence was considered and why benefits were denied or granted. Appeals take longer to resolve because of increased evidentiary and notice requirements, the introduction of an additional review level with Decision Review Officers and the need to satisfy all judicial mandates.

The fact is that there is nothing inherently wrong with any of these changes. Those decisions were all needed to fix recognized problems and abuses.

Having said that, the question still remains; how do you devise a system that allows VA to make decisions rapidly without increasing mistakes, is not costly either to the veteran or the American people, and continues to provide veterans with the protections that have been built into the law over the past 60 years?

Jerry Manar, with four other retired VA alumni, has developed a process that incorporates the best practices of a post WWII claims system to make expedited provisional decisions based on existing records. This proposal, which calls for the creation of a test program entitled the Provisional Claims Processing Program, would grant benefits on limited information quickly but with quality.

Limited to servicemembers leaving the Armed Forces or recently discharged veterans, evaluations would be based on existing evidence, understanding that benefits for some conditions may be denied when further development would enable VA to grant service connection under existing law. Conversely, it is understood that benefits, based on existing evidence, may not be service connected when all evidence is eventually developed and considered. Consequently, a grant of benefits for any disability is not a grant of service connection entitling the veteran to protections afforded by existing law and regulation.

Under this program, full development, a VA examination and a new decision would be required 4 years after the initial provisional rating. Provisional decisions made under this program would have no precedent value and service connection for all disabilities, including any new condition the veteran chooses to place into contention, would be made during the review at the 4-year point.

This program would restore the rapid delivery of benefits based on current rating standards, while still maintaining veterans' rights under a system of protections carefully crafted by Congress over the past 60 years. It should dramatically increase

decisions on original claims while allowing the bulk of VFW's field staff to concentrate on resolving the existing backlog.

More importantly, this program would provide a win for new veterans. In exchange for agreeing to wait for a final decision, they receive a provisional decision and benefits in a matter of weeks instead of more than 6 months. If properly structured the VA could fulfill the promise it made with the BDD program that a decision could be made prior to discharge.

Further, veterans have the right to choose which program they participate in AFTER they know what the provisional decision awards. If they disagree with the provisional decision, they need not accept it. And, since they know that the current program may take 6 months or more to produce a decision, their conscious choice to accept the wait should reduce the number of complaints and consequent pressure on Congress.

We will be more than happy to provide you with copies of this proposal.

Mr. Chairman, these suggestions and ideas, in and of themselves, will not solve the backlog, timeliness and quality issues plaguing the VA today. However, if adoption of these and similar proposals each result in *steady and deliberate improvement*, we believe the cumulative effect will be sufficient to achieve reductions in workload and improvements in quality and service to veterans, their families and survivors.

This concludes my statement. I would be happy to respond to any questions you may have.

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**Prepared Statement of Kerry Baker, Assistant National Legislative  
Director, Disabled American Veterans**

Mr. Chairman and Members of the Subcommittee:

I am pleased to have this opportunity to appear before you on behalf of the Disabled American Veterans (DAV), to address problems and suggest solutions to the Department of Veterans Affairs (VA) disability claims process.

The claims process is complex and poorly understood by veterans, service representatives, and even VA employees. The DAV has presented this Committee with our comprehensive suggestions for a 21st Century Claims Process. Our suggestions are intended to simplify the process by drastically reducing delays caused by superfluous procedures while simultaneously preserving governmental resources and reducing government expenditures.

The DAV's *21st Century Claims Process* represents an ambitious but achievable goal. As such, the proposal concedes that the VA achieves certain milestones with assistance from Congress. Essentially, the DAV's plan consists of three major components—a legislative package, an information technology (IT) package, and a claims process reorganization.

While all three of the components obviously complement each other, any of the three components will individually enhance the efficiency of the claims process. The benefit to this approach is that all three portions are not required to be implemented simultaneously, as would be the case in an "all-or-nothing" approach.

We also focused on this challenge with the realization of current economical restraints. Therefore, with the exception of the initial startup for the IT package, our plan does not require large government spending, not even increased VA staffing. Over time, the cost savings of this proposal would be significant.

Of important note is that all of the legislative/administrative recommendations can and should be implemented immediately. These changes are not only vital to the success of this proposed process, but will also bring cost-savings efficiency to the current claims process—efficiency equaling more than 100,000 reduced work hours annually, reduced initial average claims processing time by at least 30–90 days, and a faster and more efficient appeals process.

We have shared this proposal with Committee Staff, current and former VA officials, and other veterans' service organizations. Their recommendations were incorporated where feasible.

In DAV's plan, the initial claims process (pre-appellate stage) essentially consists of adjudication stage one, adjudication stage two, and a rating team. Adjudication teams one and two will perform functions similar to the current triage and pre-determination teams, but in a revised and more efficient format. The major difference—the backbone of the entire 21st Century System—is the Imaging Scanning Center (ISC)/drop box-mail point. All paper claims and paper in support of claims will be routed to the ISC for immediate imaging and inclusion into the electronic

record, which should then be housed centrally and accessible by all points in VBA. The ISC and electronic records center (electronic warehouse) will be linked directly to each other with a dedicated and secure high-speed/high-bandwidth connection.

This would prevent the VA from being forced to enhance its entire electronic infrastructure (a much more monumental task), as would be required if the VA had to electronically transport multiple claims files from point A to point B. Another benefit to the proposed system would be that any evidence received by the ISC would be viewable in the official record the following day. It currently takes many days, or even weeks, for VA to incorporate new evidence into a claims folder. Lost or incorrectly destroyed records would be a problem of the past.

Upon receipt of the claim in “team one,” the claim would be analyzed on a data-centric form designed to display intent with respect to the type of benefit(s) claimed. This will facilitate immediate establishment of “end product codes” (or viable replacement system). In addition to utilizing data-centric forms for rapid claims identification and establishment, such data-centric forms and resulting codes will also be utilized to determine the kind of “notice” VA is required to send the claimant, and (as near as possible) the type of assistance VA is required to offer the claimant in developing the case.

For example: In accordance with the foregoing, consider a veteran requesting an increased rating for a single service-connected disability who does not have supporting private treatment records (PTRs), and therefore only needs a current VA examination. The most practical claims form in this scenario would clearly annotate that said veteran is requesting an increased rating for XYZ disability and he/she has not received treatment outside of VA. Under the current process, said veteran is required to undergo the entire development process, despite that fact that said veteran *only* requires a current VA examination. Therefore, legislative amendments to VA’s “duty to notify/assist” are necessary so as not to require VA to undertake futile development in such a case.

If the same scenario occurred wherein said veteran had PTRs with a private doctor, such info must be clearly indicated on the claims form. The modified notification letter would then inform said veteran that VA requests he/she obtain the PTRs and submit them to VA (mailed to ISC) within 30 days. The same notification would also *clearly* and in *understandable* language inform said veteran that if, and only if, he/she cannot or will not obtain PTRs, then VA will assist *if* veteran submits VAF 21-4142 (enclosed with notification *only* in cases where PTRs are indicated on claims form). Such notification should be clear that if the veteran does not require VA’s assistance in obtaining records, then do not return, or issue VAF 21-4142.

In addition to the foregoing change regarding development of private records, another legislative change to 38 U.S.C. §§ 5103, 5103A should be incorporated that would allow the VA to *sua sponte* waive all notice and assistance under the Veterans Claims Assistance Act (VCAA) of 2001 when the VA determines that evidence of record is sufficient to award all benefits sought. Such a change would be instrumental in expediting numerous types of claims wherein the VA must currently follow all VCAA requirements despite having evidence sufficient to award benefits. (*E.g.*, certain claims under 38 CFR §§ 3.22, 3.309, 3.312, 3.350, 4.16, 4.28, 4.29, 4.30, etc.).

The recommendation to allow the VA to waive, on its own, all notice and assistance for claims wherein the VA can award a full grant of benefits sought should be utilized in conjunction with section 221 of the Veterans Benefits Improvement Act of 2008. This section allows, among other things, veterans’ representatives to use a checklist to annotate when no additional development is needed on a claim for disability compensation. There are many potential problems with this unregulated approach.

However, if utilized in conjunction with this recommendation, such a checklist could be crafted in accordance with specific regulations as mentioned above. A memorandum of understanding (MOU) could then be drafted between the VA and all service organizations housing representatives within each regional office. The MOU should highly suggest that each representative screen cases that qualify under certain prescribed guidelines, and then deliver such cases directly to one to two designated VA rating specialists for no less than a 2-week turn around for rating such a case.

This approach would not require VA employees to spend valuable time screening cases that could qualify under this expedited plan. It would also engage representatives in a more structured and less interest-conflicting manner. If executed properly and maximized to its fullest potential, such a procedure could produce close to 100,000 rating decisions per year within 2 weeks processing time.

Regarding other claims, the items team one can complete under this plan will require 1–3 days, but should never require more than 1 week. Under the current disability timeline, these same functions take 44 days on average.

Following completion of team one functions, the electronic claim immediately goes to team two. With the exam requested and the notification sent to the claimant (or waived), team two will require little or no action on the case. Team two serves primarily as a more advanced stage of development for those cases with more complexity, such as those requiring stressor or other service information verification, development of private records, or complexities returned from the rating team. Team two will not be forced to deal with many of the activities that complicate functions of its current equivalent, the pre-determination team. Therefore, team two will be able to provide much higher quality work in a more efficient manner to the final rating team, qualities the current pre-determination team cannot provide simultaneously.

The actions of teams one and two must take place in a fluid, but accurate manner. If executed properly, many cases received by VA will be ready to rate within 30 days because the notice response (to the current VCAA process) will be complete as will any required compensation and pension (C&P) examinations. The rapid initiation and synchronized completion of these two milestones are the keys to success in this revised process.

Many cases will inevitably require extended processing times due to development that cannot be streamlined because of inter-agency roadblocks, (*i.e.*, combat-stressor development from the Department of Defense's Center for Research of Unit Records). However, many other cases, such as ones similar to the examples above, could be ready to rate much, much faster than 60 days because of considerably fewer developmental requirements.

The 21st century process achieves, on average, at 30 days what the current paper-locked, procedure-heavy system achieves at approximately 150–160 days.

Once ready to rate within 30 days, the final rating team will have 30 days in which to issue a decision, a process that currently takes 13 days on average. With more time to review cases by the rating teams, contained within a much shorter overall processing time, decisionmakers can focus far more on quality than the current system allows, but without sacrificing production standards. This process will be greatly enhanced by even a modest rules-based rating system—one that will quickly and accurately process cases wherein there is nearly no room for debate, such as hearing loss and tinnitus ratings or paragraph 29/30 ratings, among others.

When VA issues a rating decision, an appeal election letter will be included. This will prevent VA from having to mail more than 100,000 letters annually to claimants appealing their decision and will reduce the appellate processing time by 60 days. The letter will explain that any notices of disagreement submitted without electing a post-decision review (DRO) process will automatically be reviewed under the traditional appeal process. (The same thing currently happens if a claimant does not respond to the appeal election letter). This change can be accomplished administratively.

A claimant wishing to appeal a decision will have 180 days in which to do so. This will require a legislative change. We realize that some may impulsively draw several inferences onto this idea. Those inferences will likely be misplaced—our ambitious goal is to take *every* opportunity in which to bring efficiency to VA's entire claims process so that it can better serve our Nation's disabled veterans. We must be open to change for such a goal to succeed.

To put this issue into perspective, the average time it took the VA to receive a notice of disagreement (NOD) in 2008 was 41 days. In fact, 92,000 out of just over 100,000 NODs were received within the first 6 months of 2008.

This is also an opportunity to bolster certain statutory rights for which the law is currently silent. When amending the appellate period from 1 year to 180 days, Congress must include an appellate period extension clause and equitable tolling clause to the appropriate section of law concerning NODs.

Specifically, we recommend changing the law so that an appellant may, upon request, extend his/her appellate period by 6 months beyond the initial 6 months. We also suggest an amendment to provide for equitable tolling of the appellate period in cases of mental or physical disability so significant to have prevented a VA claimant from responding within the specified time.

If the appeal is not resolved, the VA will issue a statement of the case with an amended VAF-9. The amendment will explain that evidence submitted after the appeal has been substantiated to the Board of Veterans Appeals (Board) will be forward directly to the Board and not considered by the regional office *unless* the appellant or his/her representative elects to have additional evidence considered by the Regional Office (RO). This opt-out clause merely reverses the standard process with-

out removing any choice/right/etc. from an appellant. This change will result in drastically reduced appellant lengths, much less appellant confusion, and nearly (or more than) 100,000 reduced VA work hours by eliminating the requirement to issue most supplemental statements of the case. Whether this change requires a legislative amendment is currently debatable; it can nonetheless be executed through legislation in order to avoid potential litigation.

The Appeals Management Center (AMC) is essentially a failure and should be disbanded. The AMC received nearly 20,000 remands from the Board in fiscal year (FY) 2008. By the end of FY 2008, the AMC had slightly over 21,000 remands on station. By the end of January 2009, they had approximately 22,600 remands on station. The AMC completed nearly 11,700 appeals, out of which 9,811 were returned to the Board, 89 were withdrawn, and only 1,789 were granted. In fact, 2,500 appeals were returned to the AMC at least a second time because of further errors in carrying out the Board's instructions, over a 25-percent error rate. This means the AMC's error rate was higher than its grant rate. Such a poor record of performance would never be allowed to exist at an RO. Returning these cases to their respective jurisdictions will help ensure accountability, and most likely reduce the number of cases that proceed to the Board.

The VA will require an additional "administrative team" that is not technically part of the claims or appeals process teams. This groups' function will be to handle daily tasks required by VA but that are not necessarily part of the "claims process." These tasks include subordinate or administrative functions such as complying with records' requests under the Freedom of Information Act, serving as attorney fee coordinators, responding to informal claims, and many others that are administrative only. Currently, post- or pre-adjudication teams handle many functions for which they do not receive work credit and/or are otherwise not a required part of the claims process. Placing these functions under the responsibility of an administrative team dedicated solely for such tasks will free up resources that can be utilized specifically for claims processing, resulting in increased efficiency.

#### **ADMINISTRATIVE/LEGISLATIVE CHANGES**

1. Amend 38 U.S.C. § 5103A(b) to indicate that VA will assist a claimant in obtaining private medical records when such assistance is requested by the claimant on a form prescribed by the Secretary. This will pave the way for some of the changes discussed above. (***process time saved—30 to 90 days on average; work hours saved—unknown but very significant***)
2. Amend 38 U.S.C. §§ 5103, 5103A to allow the VA to *sua sponte* waive all VCAA requirements when it determines that evidence of record is sufficient to award all benefits sought. (***process time and work hours saved are unknown but very significant***)
3. Title 38 U.S.C.A. § 5104(a) states, *inter alia*, that when VA notifies a claimant of a decision, "[t]he notice shall include an explanation of the procedure for obtaining review of the decision." 38 U.S.C.A. § 5104(a). An appeal election choice is part of that notice; therefore, the VA could modify 38 CFR § 3.2600 in order to facilitate the changes suggested above. (***process time saved—60 days per appeal; work hours—approx 50,000***)
4. Congress should decrease the period in which a VA claimant may submit a timely notice of disagreement to the VA following the issuance of a VA rating decision from 1 year to 6 months by amending 38 U.S.C. § 7105.
5. Amend 38 U.S.C.A. § 7104 in a manner that would specifically incorporate an automatic waiver of RO jurisdiction for any evidence received by the VA, to include the Board, after an appeal has been certified to the Board following submission of a VA Form 9, *unless* the appellant or his/her representative expressly chooses *not* to waive such jurisdiction. See para 9. (***process time saved—60 to 180 days for affected appeals at local offices; at least 2 years for appeals otherwise subject to remand; work hours—in excess of 50,000 at local offices, unknown but significant at the Board***)
6. Average total savings, 30 to 90 days pre-appellate stage. Average total savings for pre and post appellate cases (cumulative); 90 days minimum in most cases and as much as 90 to 330 days pre-remand. Potentially 3 years post remand for affected cases.

*All of the above changes can and should be implemented as soon as possible. They will adapt to the current process and produce immediate results.*

7. Disband the Appeals Management Center and return remanded appeals to original rating team.

8. VA will be required to amend its claims form (VAF 21-526) as well as create and specify the form that must be used (post 21-526) for all re-opened and new *formal* claims.

### **CONCLUSION**

We are confident these recommendations, if enacted, will help streamline the protracted claims process and drastically reduce undue delays. Some of the recommendations contained herein may appear novel and/or controversial at first; they may even draw criticism. However, such a response would be misdirected. These recommendations are carefully aimed at making efficient an inefficient process without sacrificing a single earned benefit.

Mr. Chairman, we have provided your staff as well as the staffs of Chairman Filner, Ranking Member Buyer, Chairman Akaka, and Ranking Member Burr with a copy of the DAV's proposal.

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### **Prepared Statement of Rachel Natelson, Esq., Legal Advisor, Service Women's Action Network**

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to present the views of the Service Women's Action Network (SWAN) concerning the rising backlog of VA benefits claims.

SWAN is a nonprofit service organization founded to improve the welfare of current U.S. servicewomen and to assist all women veterans. SWAN offers personal support and guidance from fellow women veterans, provides legal and counseling services from military law experts and caseworkers, recommends sound policy reform to government officials, and educates the public about servicewomen's issues through various media outlets. Conceived as a support network by and for women veterans, SWAN serves all military women, regardless of era, experience, or time in service.

#### *Background*

Under current law, the VA claims application process is a uniquely time-consuming one, hobbled by requirements that exist at neither the Social Security Administration nor private insurance companies. As this Subcommittee knows, the agency requires all applicants to prove by documentary evidence not only that they are disabled but also that their disabilities stem directly from military service. As labor-intensive for reviewers as for claimants themselves, this system has yielded an application process that routinely lasts for years, culminating in the existing backlog of over a million claims.

While the claims process imposes a toll on all veterans seeking benefits, its burden falls with particular weight on those with Post-traumatic stress disorder (PTSD), who must identify the specific stressor that triggered their condition, even if they have already been diagnosed and referred to treatment. Deeming the symptoms of PTSD "relatively easy to fabricate," the VA Clinician's Guide directs examiners to base the validity of claims on elaborate documentation from claimants' family and friends concerning changes from pre- to post-service status.<sup>1</sup>

To date, the agency has defended this system as a precaution against fraud. According to one VA spokeswoman, eliminating the proof requirement "would be a travesty for veterans—an assault to the pride of honest soldiers when other vets scammed the system."<sup>2</sup>

Such cynicism, however, hardly seems justified by actual numbers; not only are 50 percent of rejected claims reversed at the first level of appeal, but 90 percent of claims that reach the final stage of review are ultimately approved. Similarly, studies indicate that existing evidence fails to support the assumption that veterans would misreport or exaggerate PTSD symptoms in order to receive compensation.

In recent years, a number of veterans groups have sought relief from the VA in Federal court, arguing that the agency's failure to issue claim decisions within a reasonable timeframe violates the Administrative Procedure Act as well as Constitutional due process rights. When confronted with this charge, the VA has countered that given the dictates of current law—most notably the proof requirement—the ad-

<sup>1</sup> See, *VA Clinician's Guide*, 14.10 (2002).

<sup>2</sup> Joshua Kors, "How the VA Abandons Our Vets," *The Nation*, Sept. 15, 2008, p. 15.

judication and appeals process cannot help but take as long as it does. It is urgent, therefore, that the existing legislative framework for VA benefits be reassessed.

#### *Special Challenges for Women Claimants*

Although the benefits application process is labor-intensive and emotionally taxing for all claimants, women veterans face particular challenges in obtaining disability compensation from the VA. To begin, studies indicate an institutional bias in favor of claimants with combat experience, an advantage which disproportionately favors men. Not only do claim processors fail to understand the degree to which women are effectively, if not nominally, serving in combat positions, but they also fail to appreciate the extent to which servicemembers in non-combat occupations and support roles are exposed to traumatic events.

Among the most pervasive stressors experienced by military women are incidents of sexual assault and harassment. The prevalence of sexual assault in the military is hardly news, and has been the subject of a number of recent Congressional hearings and Pentagon reports. By some accounts, nearly a third of female veterans report episodes of sexual assault during military service, while 71 to 90 percent report experiences of sexual harassment. These experiences are closely associated with PTSD in a variety of studies; in fact, military sexual assault is a stronger predictor of PTSD among women veterans than combat history.<sup>3</sup> Likewise, studies indicate that sexual harassment causes the same rates of PTSD in women as combat does in men.<sup>4</sup>

In spite of this correlation, the VA grants benefits to a significantly smaller percentage of female than male PTSD claimants.<sup>5</sup> This disparity stems largely from the difficulties of substantiating experiences of military sexual assault, especially in a combat arena. Under military regulations, for example, sexual harassment investigations are only retained on file for 2 years from the close of each case.<sup>6</sup> While criminal investigations of sexual assault are better documented, 80 percent of assault victims fail to report the offense and over 20 percent of those who do file reports opt for a "restricted" mode that precludes official investigation.<sup>7</sup>

Although training and reference materials for raters provide a great deal of guidance on how combat medals and commendations may be used to support PTSD claims, they make little mention of how to address the challenges of documenting military sexual assault as an in-service stressor. As a result, reviewers tend to rely on a limited group of behavior changes in determining the validity of MST claims, often denying them if they fail to conform to a rigid set of expectations. Many raters, for example, deny MST claims from veterans with distinguished service records based on the assumption that assault victims invariably decline in their job performance.

Perhaps most frustrating is the tendency of claim processors to ignore or second-guess the evaluations of treating physicians within the VA health system, particularly with respect to mental illness. Despite the fact that the majority of my own clients have submitted MST diagnoses from VA counselors, most have received decisions indicating that they have failed to establish the condition, much less connect it to their service history. By refusing to recognize the soundness of VA medical provider reports, reviewers both protract the application timeline and compromise the healing process for claimants.

To quote one veteran who recently contacted SWAN about an MST claim she filed 4 years ago and for which she has yet to receive a hearing date, "I was raped twice while on active duty . . . I understand that this is a waiting game, but every day I think about giving up . . . I feel as though through this process I am being raped for a third time." Moreover, just as claim denial can undermine the efficacy of treatment, studies have indicated that approval tends to result in increased use of mental-health services.<sup>8</sup>

<sup>3</sup>Murdoch Murdoch, et al., "Gender Differences in Service Connection for PTSD," *Medical Care* 41, no. 8 (2003), 950-961.

<sup>4</sup>Murdoch Murdoch, et al., "The Association between In-Service Sexual Harassment and Post-traumatic stress disorder among Compensation-Seeking Veterans," *Military Medicine* 171, no. 2 (2006), 166-173.

<sup>5</sup>Committee on Veterans' Compensation for Post-traumatic stress disorder, Institute of Medicine and National Research Council of the National Academies, *PTSD Compensation and Military Service* (Washington DC: The National Academies Press, 2007), p. 192.

<sup>6</sup>Army Regulation 600-20, *EO/Sexual Harassment Complaint Processing System*, p. 97.

<sup>7</sup>U.S. Department of Defense, *FY08 Report on Sexual Assault in the Military*, p. 6.

<sup>8</sup>Committee on Veterans' Compensation for Post-traumatic stress disorder, *PTSD Compensation and Military Service*, p. 179.

*Recommendations*

The Institute of Medicine Committee on Veterans' Compensation, a panel of experts convened by the VA to examine PTSD compensation issues, has proposed a number of sound recommendations based on its research. The Committee has suggested that the agency: 1) collect gender-specific data on MST claim decisions, 2) develop additional MST-related reference materials for raters, and 3) incorporate training and testing on MST claims into its rater certification program.<sup>9</sup> The VA should implement these proposals in order to sensitize claim reviewers to the needs of assault and harassment victims.

In light of plans to create a comprehensive electronic records system for military personnel, the Department of Defense and the VA have an unusual opportunity to address the problem of documenting in-service incidents of sexual assault and harassment. In order to ensure that records of harassment and assault complaints may be accessed in support of VA claims, the military should incorporate, upon request, such investigative files into the proposed Joint Virtual Lifetime Electronic Record. While such a step would not address the issue of under-reporting, it would at least improve the accessibility of existing records.

The VA should also establish a presumption of soundness for the diagnoses of its own treating physicians and counselors. Claim reviewers should not have the authority to second-guess evaluations by agency medical professionals or to discount VA treatment records in favor of one-time Compensation and Pension (C&P) exam results. According to the IOM Committee, C&P examiners have reported feeling particular pressure to limit the time they devote to PTSD and MST evaluations, sometimes to as little as 20 minutes.<sup>10</sup>

SWAN also supports H.R. 952, which would create a statutory presumption of service-connection for OEF and OIF veterans with PTSD and Traumatic Brain Injury (TBI). However, since statistics suggest that servicewomen are more likely to be sexually assaulted outside of combat zones than during deployment, we would propose extending such a presumption to all veterans who suffer from a traumatic event while in service. According to the Pentagon's 2008 Sexual Assault Prevention and Response Office (SAPRO) report, fewer than 10 percent of the assault incidents reported last year occurred in combat zones.<sup>11</sup>

Finally, SWAN proposes revising the current VA work credit system, which paradoxically prolongs the adjudication process by privileging speed over accuracy in initial claim determinations. By measuring employee productivity strictly by number of cases processed, the VA offers reviewers an incentive to take any shortcut necessary to clear their desks of pending claims. The resulting combination of too much work and too little time ultimately gives rise to premature—and inaccurate—determinations, setting in motion years of appeals. In order to encourage accurate determinations at the Regional Office level and remove the incentive to recycle claims, the agency should award work credit only after the final stage of review.

Thank you very much for your attention. I would be happy to answer any questions that the Subcommittee might have.

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**Prepared Statement of Lieutenant General James Terry Scott, USA (Ret.),  
Chairman, Advisory Committee on Disability Compensation,  
U.S. Department of Veterans Affairs**

Chairman Hall, Ranking Member Lamborn, Members of the Subcommittee: It is my pleasure to appear before you today representing the Advisory Committee on Disability Compensation. The Committee is chartered by the Secretary of Veterans Affairs under the provisions of 38 U.S.C. and 546 in compliance with P.L. 110-389 to advise the Secretary with respect to the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. Our charter is to "(A)ssemble and review relevant information relating to the needs of veterans with disabilities; provide information relating to the character of disabilities arising from service in the Armed Forces; provide and on-going assessment of the effectiveness of the VA's Schedule for Rating Disabilities; and provide on-going advice on the most appropriate means of responding to the needs of veterans relating to disability compensation in the future."

<sup>9</sup>*Ibid.*, 194.

<sup>10</sup>*Ibid.*, p. 178.

<sup>11</sup>U.S. Department of Defense, *FY08 Report on Sexual Assault in the Military*, p. 41.

The Committee has met eight times and is drafting an interim report to the Secretary that addresses our efforts to date. Our focus is in three areas of disability compensation: Requirements and methodology for reviewing and updating the VASRD; adequacy and sequencing of transition compensation and procedures for servicemembers transitioning to veteran status with special emphasis on seriously ill or wounded servicemembers; and disability compensation for non-economic loss (often referred to as quality of life).

You asked me to present my views on the issues surrounding the VA's disability claims processing system. The Committee's charter and efforts to date have addressed the processing system only in the sense that an updated and clarified Rating Schedule will enable examining, rating and reviewing officials to make a more accurate and timely assessment of a veteran's disability and its effect on his or her average earnings loss. An updated and clarified Rating Schedule should improve first time accuracy and reduce the number of appeals and the backlog that appeals create.

Recent studies by the Veterans Disability Benefits Commission, the Institute of Medicine, the General Accounting Office and others have consistently recommended a systematic review and update process for the VASRD. The Congress has repeatedly demanded the same. I believe that the case for such a system is made. My Committee has informally recommended to the Secretary that the Deputy Secretary be tasked with oversight of the VASRD systematic review and update process to insure that the VBA, VHA and General Counsel are fully integrated into the process. We are also offering a proposed level of permanent staffing in both VBA and VHA to insure that all fifteen body systems are reviewed and updated, as necessary, in a timely way. We are proposing a priority among the body systems that takes into account the following: body systems that are at greatest risk of inappropriate evaluations; body systems are considered problem prone, and relative number of veterans and veterans' payments associated with each body system.

Regarding disability compensation for non-economic loss, also referred to as quality of life, we are reviewing the Special Monthly Compensation program and analyzing options for forms of compensation beyond a monetary stipend.

Regarding disability compensation related to transition from servicemember to veteran status, we are reviewing the many recent changes and improvements to the transition programs to determine if and where gaps in coverage and assistance may remain for veterans and families. We are also reviewing the Vocational Rehabilitation and Education program as it relates to transition for disabled veterans.

In summary, our Committee's work is progressing on a broad front. The parameters of our charter offer us the opportunity to look at all aspects of disability compensation and we are doing so. The Committee has excellent access to the Secretary and his staff. The VA staff is responsive and helpful to the Committee's requests for information. It is our intent to offer interim reports to the Secretary semi-annually.

Mr. Chairman, this concludes my statement. I welcome any comments or questions.

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**Prepared Statement of Michael Ratajczak, Decision Review Officer,  
Veterans Affairs Cleveland Regional Office, Veterans Benefits  
Administration, U.S. Department of Veterans Affairs, on behalf of the  
American Federation of Government Employees, AFL-CIO**

Dear Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify today on behalf of the American Federation of Government Employees, AFL-CIO (AFGE), the exclusive representative of employees in the Veterans Benefits Administration (VBA).

I currently serve as a Decision Review Officer (DRO) at VBA's Cleveland Regional Office, and have been employed with VBA for almost 8 years. My other experiences at VBA include duties with the Appeals Management Center, work on a joint remand quality review project with the Board of Veterans Appeals, service in a Rating Resource Center, and participation in Rating Specialist (RVSR) and DRO Certification Testing Design Committees and question writing activities. Prior to my employment with VBA, I practiced law.

Can the VA handle 1 million claims? We can and we *must* because we cannot fail those who have never failed us. AFGE and the VBA employees we represent—many of whom are veterans themselves—are committed to working tirelessly with the VA

and Congress to reduce the backlog to ensure that veterans' claims are processed with accuracy and timeliness.

We are very encouraged by Secretary Shinseki's commitment to restoring a working environment where employees on the frontlines are viewed as part of the solution, rather than part of the problem. We are equally appreciative of Chairman Hall's consistent interest in receiving AFGE's views on this issue.

The valuable tools provided by P.L. 110-389 to modernize the VA disability claims process were also the product of an inclusive dialog between stakeholders. These tools—including improvements in employee certification and training, studies to overhaul the current work credit and work management systems, and enhanced information technology (IT)—will significantly reduce an inventory of one million claims or any other size. The urgency of putting these tools into practice grows greater with each new claim in the queue. These tools are crucial for achieving the most important objective of all: do each claim right the *first* time.

#### **Skills Certification and Training**

The requirement in the new law to require some managers to take skills certification tests will yield multiple benefits for VBA's efforts to address the million claims backlog. Our members regularly report that they are supervised by managers who have little or no experience performing the complex functions involved in processing disability claims, rendering their roles as mentors and trainers ineffective. Managers without sufficient expertise are also unable to carry out quality assurance duties, leading to greater errors, which in turn lead to more appeals, remands and other delays.

The requirement in the law that VBA consult with all stakeholders, including employee representatives, in order to improve the certification process will ensure the development of effective exams that test for appropriate skills.

AFGE understands that the design process for certification testing of first line supervisors, Assistant Service Center Managers, and Service Center Managers is imminent or has already begun. Unfortunately, employee representatives have not been given the opportunity for input into this effort. VBA must include employee representatives in the design process to ensure that management certification is sufficiently rigorous, and therefore, adequately prepares managers and employees who perform quality review of the work of VSRs, RVSRs and DROs. Workplace morale also suffers when frontline employees work under intense pressure to adjudicate complex claims while supervised by managers who have not done and do not understand their jobs.

The increased complexity of disability claims and additional duties also demand strong training programs for both new and current employees. AFGE members routinely report deficiencies in the training provided at ROs. These deficiencies range from failure to adequately advise employees of the impact of changes in the law to failure to ensure that the training program that certification is designed to test is complete. The provision in P.L. 110-389 for an independent evaluation of VBA's employee training programs is a crucial component of any strategy to expedite and improve the claims process.

AFGE urges consideration of the following as part of this training study:

- The impact of inconsistencies between ROs in the number of hours that management sets aside for employee training;
- The feasibility of a centralized training program using a cadre of formally training instructors to provide RO training;
- Increasing manager accountability for noncompliance with training requirements, and the use of manager incentives to improve the quality of training programs.

#### **Work Credit and Work Management Systems**

Production requirements driven by fiat and ignorance rather than evidence and analysis will only continue to create incentives for employees and managers to make quantity a higher priority than quality.

VBA has yet to produce evidence that it has undertaken a reliable time and motion study that would enable it to develop an effective system for assigning work credit for different tasks in the claims process. Through the leadership of the Subcommittee and the passage of P.L. 110-389, this greatly needed study is closer to becoming a reality.

An accurate work measurement system will lay the foundation for an effective work management system. Employee workload requirements must be ascertained by reference to valid empirical data. VBA must, with no preconceptions, identify how much an employee can reasonably be expected to do with an acceptable level of accuracy, and use that data to project the number of employees it needs to process

its inventory. VBA has not adjusted individual employee production standards to reflect the increasing complexity and difficulty of the claims process. Instead, employees are subjected to arbitrary and unreasonable production standards that lead to inefficient and incomplete claims development. This failure has deprived claimants of full, fair, and timely consideration of their claims, and is largely responsible for VBA's increasing inventory of claims.

We also endorse the requirement in this law to study ways to simplify the processes for gathering evidence and adjudication of claims. The insights of frontline employees who regularly confront inefficiencies in these processes will be invaluable to this effort.

As part of the study's focus on measures to improve the accountability of claims process, AFGE recommends consideration of two issues: First, whether modifying the CPI (Claims Processing Initiative) would enable VBA to better address the backlog and quality problems; and, second, whether the increased use of the practice of brokering cases between ROs has also contributed to delays and quality deficiencies.

Finally, the requirement that VBA identify "lessons learned" and best practices through analyses of *each* Regional Office will yield enormous benefits with minimal costs. Over the years, fewer and fewer ROs have set aside the time for claims processing employees to regularly exchange information with their colleagues about how to perform their jobs more effectively. This simple idea is a valuable learning and efficiency tool that is widely used in many other public and private sector workplaces and has been sorely lacking in many VBA workplaces.

#### **Enhancement of Information Technology**

AFGE commends the Subcommittee for its efforts to move VBA beyond a series of unmet promises to fix its outdated IT systems through provisions in P.L. 110-389 for development of a comprehensive plan for technology to support consistent, accurate and objective claims processing.

A paperless environment is a crucial first step toward this goal. The most immediate benefit of electronic files is the reduction of claims processing time. Adjudicators who can access electronic files will no longer need to delay processing of the claim until arrival of a physical file, and it will be possible to process co-existing claims simultaneously.

AFGE recommends a two-step process for converting to a paperless environment. First, starting with new claims, scan all documents associated with initial claims received so that they are available to adjudicators in an electronic format. This will ensure that claims files going forward will be essentially electronic, and thus, enable VBA to begin the transition to a wholly paperless claims environment.

Second, the contents of any existing claims file that is transferred from or between ROs (for example, as work brokered from one RO to another, or as an appeal to the Board of Veterans Appeals) should be scanned. Transfers of paper files result in significant cost and increase the risk of losing important documents. The scanning of transferred cases would also ensure that documents that are received after the transfer are properly associated with the file in the fastest and most efficient manner. In addition, by providing all adjudicators access to the same information, it would ensure that co-existing claims (for example, appealed issues and new claims) are worked accurately and simultaneously.

#### **Is VBA making effective use of its expanded workforce and training investment?**

Over the last several years, Congress has responded to the lack of staff to address the growing backlog by providing funding to expand VBA's claims processing workforce. AFGE urges the Subcommittee to investigate reports that significant numbers of new VSRs and RVSRs are fired during their probationary periods for poor performance even though they have not completed mandatory training. It is especially troubling that many of those losing their jobs are veterans who were recently hired under preference rules.

Thank you again for the opportunity to testify on the urgency of implementing P.L. 110-389 to reduce the backlog.



**Prepared Statement of Michael Walcoff,  
Deputy Under Secretary for Benefits, Veterans Benefits Administration,  
U.S. Department of Veterans Affairs**

Mr. Chairman and Members of the Subcommittee:

Thank you for providing me the opportunity to appear before you today to discuss the Veterans Benefits Administration's (VBA) disability claims processing system and our efforts to improve processing and timeliness. I am pleased to be accompanied by Mr. Bradley G. Mayes, VBA's Director of the Compensation and Pension Service, and Mr. Scott Cragg, Executive Director and Program Manager for the Virtual Lifetime Electronic Record.

My testimony will also focus on defining the backlog, improvement initiatives, our information technology modernization strategy, business transformation efforts, the Joint VA/DoD Virtual Lifetime Electronic Record, and the implementation of Public Law 110-389.

**Defining Backlog**

A number of figures have been used to define the backlog of compensation and pension (C&P) disability claims at VBA. Before accepting any backlog figure, an explanation of the pending claims inventory at any given time should be considered. I will describe this pending claims inventory, and then relate it to the VBA's definition of backlog.

The VBA's pending inventory includes all claims received, whether pending for just a few hours or as long as 6 months. Completed claims are continuously removed from the inventory while newly received claims are added. VBA maintains this pending inventory of claims, which are bundled into two categories: rating workload and non-rating workload.

The rating workload is composed of original and reopened claims for disability compensation and/or pension. This workload is how VBA traditionally measures its claims inventory. These claims are considered to be the core of our claims processing activity because they represent Veterans awaiting an entitlement decision for service connected disability compensation or non-service connected pension benefits. At the end of May 2009, VBA's rating-related inventory was 402,047 claims. Of these, 267,093, or 66.4 percent, were reopened claims, which include claims for increased benefits, newly claimed disabilities for Veterans who have previously filed claims, or additional evidence submitted to reopen a previously denied claim.

Non-rating workload includes dependency adjustments on active compensation awards, income adjustments on pension awards, and eligibility determinations for ancillary benefits like auto, clothing, and special housing allowances. At the end of May 2009, non-rating inventory was 220,891 claims. This portion of VBA's workload varies during the year due to the cyclical nature of the income and eligibility verification processes associated with pension workload. During the second and third quarter of the fiscal year, it's not unusual to see fluctuations in inventory up to 50,000 claims.

One major challenge in improving service delivery of compensation and pension benefits is the steady and sizeable increase in workload. During FY08, VBA received 888,000 rating claims and 755,000 non-rating claims for a total of more than 1.6 million, or 4,501 per day.

Through May 2009, rating-related claims received are up 13½ percent during FY09 compared to the same period in FY08. Despite a 9.3-percent increase in claims completed, the rating-related inventory has increased from 379,842 at the end of FY08 to 402,047 at the end of May 2009.

Although the inventory of rating claims has increased by approximately 22,000 this year, we have made progress in improving the timeliness of our decisions. During FY09, VBA has improved average days to complete on rating claims from 178.9 days at the end of FY08 to 161.8 days at the end of May 2009. We have made similar progress in improving non-rating timeliness from 109.4 days at the end of FY08 to 88 days at the end of May 2009. The combined FY09 timeliness for all rating and non-rating claims completed through May 2009 is 120.9 days.

VBA's entire inventory of pending disability claims is frequently—and incorrectly—referred to as the “claims backlog.” While we currently have approximately 400,000 claims in our inventory, the majority of these claims are not “backlogged.” The inventory is dynamic rather than static. It includes all claims received, whether pending for just a few hours or as long as 6 months. Completed claims are continuously removed from the inventory while new claims are added. This year we are averaging over 80,000 new claims added to the inventory each month.

VBA's strategic goal for completing disability claims is 125 days. At the end of FY08, there were 139,333 rating claims pending more than 125 days, or 36.7 per-

cent of the pending inventory. During FY09, VBA has made progress in reducing the number and percent of inventory pending greater than 125 days. At the end of May 2009, rating 134,626 claims, or 33½ percent of the inventory, were pending greater than 125 days.

#### **Improvement Initiatives**

VBA has aggressively hired across the Nation since the second quarter of FY07 and has hired nearly 4,200 new employees since January 2007. Because it takes at least 2 years for a new employee to become fully trained in all aspects of claims processing, we're only now beginning to see the full impact of those employees hired at the outset of this initiative. During FY09 to date (through May 2009), VBA has completed 9.3 percent more than the same period during FY08 and 19.8 percent more than the same period in FY07. We believe our newly hired workforce will continue to make progress in delivering more decisions to Veterans.

In order to leverage the knowledge and experience of recently retired claims processors, VBA has hired back more than 90 recent retirees as rehired annuitants. These rehired annuitants assist in completing rating decisions and training and mentoring new employees.

In September 2008, VBA partnered with Booz Allen Hamilton (BAH) to conduct a review of the rating-related claim development process to provide recommendations to improve the process with an emphasis on cycle time reduction. During their study, BAH interviewed VBA leadership, conducted site visits to regional offices and met with frontline employees. At the conclusion of their review, BAH recommended VBA apply Lean Six Sigma production practices to claims processing in order to facilitate claims movement, or flow, thereby reducing processing time. We are in the process of establishing a pilot to examine BAH's recommendations.

We are pleased with recent progress to address the backlog, but not satisfied with current performance and strive for new methods for improvement.

#### **Information Technology Modernization**

Not only is VBA working on process improvements to the claims processing system, we are also working on other changes as well. With regard to our information technology modernization strategy, VBA is investing in the migration of VBA compensation and pension claims processing to a paperless environment. We have successfully used imaging technology and computable data to support claims processing in our Insurance, Education, and Loan Guaranty programs for many years. Initial pilot efforts in our Compensation and Pension business line demonstrated the feasibility of using this type of technology for these benefit programs as well.

At the core of our strategy is the implementation of a business model for Compensation and Pension processing that is less reliant on the acquisition and storage of paper documents. Our comprehensive plan, the Paperless Delivery of Veterans Benefits Initiative, is envisioned to employ a variety of enhanced technologies to support end-to-end claims processing.

In addition to imaging and computable data, we will incorporate enhanced electronic workflow capabilities, enterprise content and correspondence management services, and integration with our modernized payment system. We are also exploring the utility of business-rules-engine software both for workflow management and to potentially support improved decisionmaking by claims processing personnel.

VA contracted with Electronic Data Systems (EDS) to serve as the lead systems integrator (LSI) for this effort. Fiscal year 2010 is our target year for release of the initial hardware and software in support of the large-scale expansion of the Paperless Initiative. The LSI effort is focused on the design of the technology solution, which will support enhanced paperless claims processing capabilities across VA. By committing to a paperless system, we will improve the efficiency and speed of claims processing.

#### **Virtual Lifetime Electronic Record (VLER)**

VA and the Department of Defense (DoD) also continue to work collaboratively to define the scope and strategy for the Virtual Lifetime Electronic Record (VLER). Both Departments have agreed that the objective for VLER is to establish a coherent, lifetime electronic record that will capture Servicemember/Veteran information from accession into military service to interment, and include all information necessary to provide medical care, services, benefits, and compensation to the Veteran, eligible family members, or eligible beneficiaries.

VLER will enable VBA to have a consolidated view of Veterans' data and leverage the exchange of accurate data from the authoritative source, in order to streamline claims processing.

### **Business Transformation Efforts**

While the use of advanced technologies is critical to our service-delivery strategy, we must also address our business processes. To that end, VBA developed strategic partnerships with two recognized experts in the field of organizational transformation. MITRE Corp., a manager of federally Funded Research and Development Centers, has been supporting VBA on the VETSNET project since 2006. MITRE is now actively providing strategic program management support, as well as support for the overall Paperless Initiative, addressing multiple areas of focus.

Additionally, Booz Allen Hamilton (BAH) was recently engaged by VBA to provide business transformation services. BAH is assisting VBA in business process re-engineering, organizational change management, workforce planning and organizational learning strategies to ensure that VBA is well-positioned to take best advantage of the technology solutions being developed.

As another element of our comprehensive transformation strategy, VBA designated the VA Regional Office in Providence, Rhode Island, to serve as our Business Transformation Lab. The Business Transformation Lab will serve as the focal point for convergence of process re-engineering and technology, assuring that service delivery is optimized and best practices are developed and deployed throughout VBA.

We recognize that, while technology is not the panacea for our claims-processing concerns, it is the hallmark of a forward-looking organization. Our paperless strategy combines a business-focused transformation and re-engineering effort with enhanced technologies, to provide an overarching vision for improving service delivery to our Nation's Veterans.

### **Public Law 110-389**

I appreciate the opportunity to discuss VA's efforts in the implementation of Public Law 110-389. I will discuss VA's progress for each pertinent section of this law.

Section 101 amends Title 38, United States Code, section 5103(a) to authorize the Secretary of Veterans Affairs to prescribe regulations on the content of the notice to be provided to claimants when they file claims with VA. Currently, VA is drafting regulations according to the specified requirements listed in section 5103(a) and with the intent to make notification letters to our clients more understandable and useful. Because of the legal complexities involved with the notification process and the potential impact on VA's ability to reduce the pending inventory of claims in the future, VA continues to carefully draft this regulation.

Section 104 requires VA to submit a report to Congress describing the progress of the Secretary in addressing the causes of variances in compensation payments for Veterans with service-connected disabilities. A contract has been awarded to the Institute for Defense Analysis to conduct this assessment. A workgroup has been established and is working closely with the contractor to ensure a proper analysis and report is completed by October 2009.

Section 105 extends the temporary authority for the performance of medical disability examinations by contract physicians. This amends section 704(c) of the Veterans Benefits Act of 2003 by extending temporary authority for performance of contract examinations to December 31, 2010. Because of this time extension, VA continues to expand this program to other areas of the country.

Section 106 adds osteoporosis to disabilities presumed to be service connected in former prisoners of war (FPOWs) with Post-traumatic stress disorder. A final rule to implement this provision has been drafted and is currently undergoing Executive Branch review. The final rule incorporates a determination by the Secretary that a presumption of service connection for osteoporosis in FPOWs will be established irrespective of the presence of PTSD.

Section 212 added a new section 5121A entitled "Substitution in case of death of claimant," to title 38. The new statute provides that if a claimant dies while his or her claim or appeal for any benefit is pending, a person who is eligible to receive accrued benefits can request to be substituted as the claimant to continue the claim. We are carefully analyzing various policy and procedural issues relating to substitution. We will draft a proposed regulation as soon as our analysis is completed.

Section 213 directs the Secretary to submit a report to Congress on VA's findings and recommendations with respect to a report prepared by Economic Systems, Inc. (EconSys). EconSys conducted studies of compensation based on earnings loss, quality of life loss, and long-term transition payments to Veterans undergoing rehabilitation for service-connected disabilities. VBA has completed its analysis and submitted findings and recommendations for the Secretary's review and approval.

Section 214 requires the establishment of an Advisory Committee on Disability Compensation. This eleven-member Committee has met each month since its first meeting in November 2008. The Committee is directed to submit biennial reports

to the Secretary, with the first report due no later than October 31, 2010. At its most recent meeting, the Committee heard testimony from, and dialogued with, the Compensation and Pension Service concerning VA's Schedule for Rating Disabilities and examination process. The Secretary's chief of staff also discussed the Secretary's priorities with the Committee.

Section 221 requires VA to carry out two pilot programs. First, VA will carry out a 1-year pilot program to assess the feasibility and advisability of providing expeditious treatment of fully developed compensation and pension claims no later than 90 days after the date the claim is submitted. A second pilot will assess the feasibility and advisability of providing a claimant and his/her representative (if any) of a checklist containing information or evidence required for the claimant to submit to substantiate the claim.

Regarding the first pilot, we are on-track to issue a report to Congress by December 9, 2009, as stipulated in the section. An all-station letter implementing the pilot was issued on December 11, 2008, which identified the ten regional offices participating in the pilot. The letter directed that the claimant or representative (if any) must submit, along with the claim, an indication that the claimant does not intend to submit any additional information or evidence in support of the claim, and does not require additional assistance with it. The claim must be accompanied by a fully developed claim (FDC) certification signed and dated by the claimant and the representative (if any). Additional development will not be needed, other than scheduling a VA examination or obtaining records in the constructive custody of the Federal Government. For the purposes of this pilot program, the status of a fully developed claim may change if, during processing, we determine that the claim requires assistance beyond that required in the FDC criteria. A contract has been awarded to the Center for Naval Analyses (CNA) to review and report on results of the pilot.

The second pilot under this section will assess the feasibility and advisability of providing a claimant and his/her representative (if any) with a checklist containing information or evidence required for the claimant to submit to substantiate the claim. We are also on-track to report on the pilot to Congress by December 9, 2009. An all-station letter implementing the pilot was issued on December 11, 2008, which identified the four regional offices participating in the pilot. This pilot will assess whether providing such a checklist will result in more frequent and timelier submission of evidence. This checklist, which provides claimants with a "snapshot" of the evidence/information needed to substantiate a claim, will be used for original claims, claims to reopen, and claims for increased ratings. The duration of the pilot will be a year for original claims and 3 years for claims for an increase or reopened claims. The Center for Naval Analyses has also been awarded the contract for preparing an analysis and report upon the completion of this project.

Section 222 directs the VA Secretary to establish an "Office of Survivors Assistance" to serve as a resource regarding survivors and dependents of deceased Veterans and servicemembers and serve as the Secretary's primary advisor concerning such issues. The Office was created on December 22, 2008, and set up under the Office of the Secretary. Four employees were immediately detailed to the Office to start working on the mission as defined by Congress. A Director and one permanent employee have been selected and the remaining personnel will be chosen soon.

Section 223 directs that the Comptroller General submit to Congress, within 10 months after enactment of the law, a report on VA's Dependency and Indemnity Compensation (DIC) benefits that addresses the current system for paying DIC to survivors including the current rates; an assessment of the adequacy of DIC payments in replacing the deceased Veteran's income; and recommendations to improve or enhance the effects of the DIC payments in replacing the deceased Veteran's income. The Comptroller General has not yet delivered his report. We look forward to reviewing the findings and recommendations.

Section 224 directs the Secretary of VA to enter into a contract with an independent third-party entity to conduct an assessment of VBA's quality assurance program and issue a report no later than October 2011. We have awarded a contract to the Institute for Defense Analysis (IDA) to undertake the assessment.

Section 225 requires VA to develop skills certification examination criteria for VBA employees and managers responsible for processing compensation and pension claims. VBA's decision review officers (DROs) and coaches (Supervisory VSRs) have been designated to participate in testing; however, assistant service center managers and service center managers may also participate in the future. A contract has been awarded to the Human Resources Research Organization (HumRRO). A design team has been created for the supervisory test; however, assignment of the design team for the DRO test is pending.

Section 226 tasks VA with conducting a study on the effectiveness of the current employee work credit system and management system within VBA, which is used

to measure and manage the work production of employees who handle compensation and pension claims. The study is also to evaluate more effective means of improving performance. A contract was awarded to the Center for Naval Analyses in March 2009. CNA's analysis will address the performance accountability and work measurement systems, as well as work process improvements. VA is on-track to provide its report to Congress by October 2009.

Section 227 requires VA to conduct a review of the information technology (IT) in VBA concerning compensation and pension benefits, and to develop a comprehensive plan for the use of IT technology in processing claims for the purpose of reducing subjectivity, avoidable remands, and regional office variances in disability ratings for specific disabilities. A full report regarding our technology approach will be provided no later than April 1, 2010.

Section 228 directs the VA Secretary to provide an assessment of various mechanisms to improve communication between VBA and VHA in providing medical advice to rating specialists. The assessment is also to include an evaluation of the need for more staff in VHA to support providing advice to rating specialists. A joint VBA/VHA review was timely provided to Congress in April 2009, in accordance with the statute. The report concluded that based on current processes and resources, VBA field stations have sufficient access to medical advice.

Sections 331 through 334 addressed services provided to Veterans under the VA Vocational Rehabilitation and Employment (VR&E) program. Section 331 waived the 24 month limitation on programs of independent living services when necessary to ensure a substantial increase in severely ill or injured GWOT Veterans' level of independence in daily living. Section 332 of the bill increased the cap for new plans of independent living services from 2,500 to 2,600 cases. VA correspondingly revised policy and provided implementation guidance to field stations. Studies of the VR&E program include a report on measures to assist and encourage Veterans in completing vocational rehabilitation (Section 333) and a longitudinal Study of VR&E Programs of three cohorts of Veterans who begin receiving VR&E services during fiscal years 2010, 2012, and 2014 (Section 334). VA is working with the Office of Acquisitions and Logistics to contract for both studies. Proposals from interested vendors are due to VA this month.

### **Conclusion**

VBA has taken various steps to resolve the existing inventory, and has many pilot programs and studies ongoing to determine the way forward.

Mr. Chairman, this concludes my testimony. I will be happy to respond to any questions that you or other Members of the Subcommittee have.

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## **Prepared Statement of Rear Admiral Gregory Timberlake, SHCE, USN, Acting Director, U.S. Department of Defense/ U.S. Department of Veterans Affairs Interagency Program Office**

### INTRODUCTION

Chairman Hall and distinguished Members of the Committee, thank you for the opportunity to discuss the role of the DoD/VA Interagency Program Office (IPO) in the ongoing data-sharing activities of the Department of Defense (DoD) and the Department of Veterans Affairs (VA). Collaboration between the two Departments on information technology issues has grown exponentially in recent years, enabling the Departments to explore ways in which they may benefit jointly from data-sharing innovations in the private sector, as well as helping to foster bold new government-driven information-sharing capabilities, like the development of a "Virtual Lifetime Electronic Record" (VLER) for servicemembers and veterans. Working on behalf of the DoD/VA Joint Executive Council, the IPO plays a key role in facilitating these efforts, and in providing oversight of various data-sharing initiatives between the Departments. In recent months, the IPO has been focused on two central areas: (1) facilitating the efforts of the two Departments to achieve full interoperability of their electronic health records by September of this year, as defined by the VA and DoD clinicians that rely on this data to treat patients, and (2) working with the Departments to develop an effective governance and management model for the VLER project. These two areas will be the focus of my testimony today.

### IPO BACKGROUND

In April 2008, DoD and VA formed the "DoD/VA Interagency Program Office" (IPO) in response to section 1635 of the National Defense Authorization Act for fis-

cal year 2008, which required the creation of an entity to serve as a single point of accountability for the rapid development and implementation of electronic health record (EHR) systems or capabilities between the Departments. Section 1635 further mandated that full interoperability of personal health care information between the DoD and VA be achieved by September 2009. Since its inception, the IPO has worked diligently to achieve this mandate, providing the Departments with reliable, effective management oversight of potential risks involving the identification, coordination, and review of information sharing requirements, and informing stakeholders about the impact these processes may have on DoD/VA information sharing progress.

The responsibility for developing requirements and executing technical information technology solutions remains with the respective DoD and VA organizations, using the Departments' established statutory and regulatory processes for acquisition, funding, management control, information assurance, and other execution actions. The differences between the Departments in these areas can pose challenges to effective collaboration on joint DoD/VA information sharing projects. In order to overcome such challenges, the IPO has worked closely with the existing leadership of the Joint Executive Council to provide focused assistance and oversight to ensure the Departments achieve their goals. Our work includes facilitating discussions between DoD and VA functional business communities on areas such as supporting the definition of DoD/VA data-sharing requirements, promoting effective synchronization of DoD/VA schedules for the technical execution of joint data-sharing initiatives, assisting in the coordination of funding considerations, and assisting in obtaining the input and concurrence of stakeholders.

#### THE VIRTUAL LIFETIME ELECTRONIC RECORD: THE VISION AND THE BROAD CONCEPTUAL CHALLENGES

On April 9, 2009, the President, along with Secretary Gates and Secretary Shinseki, announced that DoD and VA have taken the first step in creating a joint Virtual Lifetime Electronic Record (VLER). Early in his remarks, President Obama pointed out the largest challenge that the two Departments face in their continuing efforts to modernize their electronic health and benefits records systems, declaring that "there is no comprehensive system in place that allows for a streamlined transition of health care records between DoD and the VA." Creating such a capability would mark a departure from data-sharing efforts in the past, which have centered on developing an ever-proliferating array of information-sharing programs that allow one Department to access patient data that has been captured in the electronic health record system of the other Department. While this strategy has allowed DoD and VA to share unprecedented amounts of patient health care data, the adoption of new technologies can provide even more efficiencies in the collection, retrieval, and use of patient health care data across the Departments. Recognizing this, the President directed the two Departments to "work together to define and build a seamless system of integration with a simple goal: When a member of the Armed Forces separates from the military, he or she will no longer have to walk paperwork from a DoD duty station to a local VA health center; their electronic records will transition along with them and remain with them forever."

In a press release that was issued shortly after the President's speech, the White House highlighted the importance of creating a comprehensive virtual lifetime electronic records capability between DoD and VA, and noted some of the advantages that would likely result from the establishment of a VLER: "Access to electronic records is essential to modern health care delivery and the paperless administration of benefits. It provides a framework to ensure that all health care providers have all the information they need to deliver high-quality health care while reducing medical errors. The creation of this joint Virtual Lifetime Electronic Record by the two organizations would take the next leap to delivering seamless, high-quality care, and serve as a model for the Nation."

As the White House pointed out, the potential benefits of a VLER are indeed monumental, but so is the effort that is required in order to plan, create, and implement a VLER. The effort to create a VLER represents one of the largest single joint projects that any two Federal Departments have made in recent years, and there are a number of challenges that must be overcome to achieve the President's vision. To begin with, new IT conceptual frameworks must be invented to provide a health and benefits data-sharing architecture to which both Departments can build electronic records systems. Right now, discussions between the Departments are focused on leveraging a common services architecture framework to support modernized tools and technologies on both sides. In addition to the over-arching conceptual issues on the technical side, the Departments must reach consensus on an effective

governance model for the VLER project. Each Department has unique processes for funding, management, and oversight processes for information technology projects. These processes must be brought into alignment in key areas in order for successful planning and development to occur on the VLER initiative.

#### IPO EFFORTS TO ADDRESS FOUNDATIONAL TECHNICAL, GOVERNANCE, AND PLANNING ISSUES

The IPO is an active participant in, and contributor to, interagency efforts to develop a strategy for VLER implementation. Following the policy guidance provided by the President and the Secretaries, the IPO established a VLER working group to provide a focused requirements and management effort to accelerate the adoption of a joint DoD/VA timeline for the VLER. This timeline, when complete, will provide a roadmap of major milestones to ensure an aggressive VLER implementation schedule with evolving benefits and successes. One of the first milestones on this timeline is to reach agreement on a precise definition of the scope of the VLER. There is already consensus among senior officials from both Departments on some of the categories of health and benefits data that must be accessible through the VLER. Discussions on other issues concerning the scope of the VLER are ongoing.

In addition to discussions on the scope of VLER, the IPO also plays an active role in efforts to reach inter-Departmental consensus on broad technical requirements issues. Progress is being made on the Departments' efforts to agree to use a nationally recognized set of uniform and open standards for information exchange, such as those being implemented by the Department of Health and Human Services' National Health Information Network and the Justice Department's National Information Exchange Model. This approach could enable DoD and VA to create an architectural framework that is capable of interconnecting systems from both the private sector and the government. Ultimately, such an information-sharing architecture could serve as a model for national electronic records.

Another major focus of the IPO is to establish an effective governance model for the VLER. Under current governance processes, the IPO receives guidance from the Secretaries of DoD and VA, as well as from the Joint Executive Council (JEC) [which is co-chaired by the Departments' Deputy Secretaries]. The IPO works collaboratively with the DoD/VA Health Executive Council (HEC) for health-related data sharing, and the DoD/VA Benefits Executive Council (BEC) for personnel and benefits data sharing. The JEC provides leadership oversight of the HEC, BEC, IPO, and other councils and work groups, as determined by the JEC co-chairs. When the IPO identifies issues that cannot be resolved at the HEC and BEC levels, we elevate those issues to the JEC for final resolution. These oversight and governing procedures ensure that information-sharing efforts move in the right direction and at a pace that meets or exceeds the expectations of our stakeholders.

The existing governance structure has been adequate to enable the Departments to improve interoperability of their electronic health care records and to achieve unprecedented success in sharing electronic data. As DoD and VA plan the foundations of a robust and complex VLER, the Departments need to give additional consideration to determining how they will govern and implement the VLER. The IPO is working with the Departments to analyze the current processes through which issues are filtered up and managed through the HEC, BEC and JEC governing bodies. The goal is to ensure that critical decisions can be addressed quickly and effectively, at the lowest level of authority possible. Processes for issue-resolution in other areas of collaboration between the Departments may also need to be clarified or modified in order to ensure that VLER is implemented in the most expeditious manner possible.

#### HEALTH DATA SHARING AND INTEROPERABILITY

Efforts related to the planning and implementation of the Virtual Lifetime Electronic Record are not intended to replace our Congressionally-mandated objective of achieving full interoperability of existing electronic health records systems by September of this year. The VLER effort and the EHR interoperability effort do not conflict with one another. In fact, the Departments' efforts to meet Congress' interoperability goals have resulted in a body of work and 'lessons learned' that will be heavily leveraged during efforts to achieve the VLER vision.

The Departments began laying the foundation for interoperability in 2001, when the first patient health information was transferred electronically from DoD to VA using the Federal Health Information Exchange (FHIE). Since that time, both Departments have continued to enhance the exchange to support bidirectional data sharing, and to expand the types of information that is shared, as well as the manner in which information is shared. By leveraging the prior accomplishments of the

Departments, the IPO and the Departments have been successful in formulating a plan to achieve full interoperability that will meet the needs our treating clinicians by the September 2009 target date. As part of this plan, VA and DoD will continue to improve upon the successes of existing data exchange initiatives, like the FHIE and the Bidirectional Health Information Exchange (BHIE), and expand the type of data shared through the already interoperable Clinical Data Repository/Health Data Repository (CHDR interface). To add further capability, new pilot programs such as the BHIE Imaging Pilot were developed. This pilot is now deployed and operational at major military and VA medical centers across the country.

The following examples provide greater detail of some of the successes of the Departments' ongoing data-sharing initiatives (figures are current as of April 29, 2009):

- The Federal Health Information Exchange (FHIE) data repository allows VA to access electronic health information from DoD on over 4.8 million separated servicemembers. The FHIE allows VA providers to access and view 71 million laboratory results, 11.7 million radiology reports, 73.8 million pharmacy records, 78.8 million standard ambulatory records, 3.1 million consultation reports, and 2½ million deployment health assessments for shared patients.
- The Bidirectional Health Information Exchange (BHIE) enables bidirectional real-time sharing of readable electronic health information between DoD and VA for shared patients. Since July 2007, BHIE data from all DoD and VA medical facilities are available to VA and DoD providers. As of February 2009, health data is available through BHIE for more than 3.3 million shared patients, including over 117,980 Theater patients.
- BHIE also allows VA and DoD to share inpatient information, and provides VA with the ability to access to inpatient discharge summaries from DoD's inpatient documentation system. This capability is operational at some of DoD's largest inpatient facilities, representing approximately 55 percent of total DoD inpatient beds. DoD will increase the number of sites with electronic inpatient documentation system in FY 2009.
- In addition to sharing viewable text data, DoD and VA are sharing digital radiology images at key locations.
- Since 2006, DoD and VA have been sharing computable outpatient pharmacy and allergy data through the interface between the Clinical Data Repository (CDR) of AHLTA and VA's Health Data Repository (HDR) of HealtheVet Vista. This initiative, known as the Clinical Health Data Repository (CHDR), integrates outpatient pharmacy and medication allergy data for shared patients, and supports automatic check for drug-drug and drug-allergy interactions by using data from both Departments. In December 2007, all DoD facilities received the capability to initiate the exchange of this data on shared patients.

While much progress has been made toward our current interoperability goals, some challenges still remain. The key challenges include the following:

- Developing, adopting, and maturing standards at the national level to ensure efficient operational use.
- Updating capabilities, systems, infrastructure, and technology consistent with emerging standards.
- Identifying and prioritizing information requirements for sequential upgrade to new technologies and common services, as defined by the business process owners and the functional community.

In addition to this list of challenges, the Departments must continually work together to overcome difficulties created by different acquisition and funding cycles, different contracting processes, and differences in information assurance certification processes. The Departments and the IPO continue to engage in collaborative efforts to ensure that any impediment that may arise from these differences is resolved in an efficient manner. In spite of these challenges, the IPO and the two Departments are on track to achieve full interoperability for the provision of clinical care by September 30, 2009, as defined by the Interagency Clinical Informatics Board (ICIB).

## CONCLUSION

The IPO and the Departments are engaged in many efforts to ensure that full interoperability for the provision of clinical care is achieved by September of this year. We recognize that interoperability does not have a discrete end point, as technologies and standards continue to evolve. Our efforts in the future will continue to build upon our past successes, allowing the Departments' to maintain their standard of providing the highest quality care for our servicemembers, veterans and their beneficiaries.

That future is beginning to come into focus as we make progress on joint efforts to plan the Virtual Lifetime Electronic Record. Creating and implementing the VLER will require an unprecedented amount of effort, coordination, and interagency cooperation. The IPO is committed to this work, and looks forward to continuing to facilitate the efforts of the Departments on the VLER. When operational, the VLER will provide our servicemembers, veterans, and service providers with the health and benefits data they need, when and where they need it, thereby ultimately improving the quality of both health care and benefits services.

Thank you for the opportunity to address the Committee, and to provide you with an update on the important work that we are doing to advance electronic data-sharing between the DoD and VA. I look forward to keeping you apprised of our progress toward our shared goal of improving the quality of services for our servicemembers, veterans and their families.

**MATERIAL SUBMITTED FOR THE RECORD**

Committee on Veterans Affairs  
 Subcommittee on Disability Assistance and Memorial Affairs  
 Washington, DC.  
*July 20, 2009*

Ian de Planque  
 Assistant Director, Veterans Affairs and Rehabilitation Commission  
 The American Legion  
 1608 K Street, NW  
 Washington, DC 20006

Dear Mr. DePlanque:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs hearing on, "Addressing the Backlog: Can VA Manage One Million Claims?" held on June 18, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Monday, August 17, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your responses to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
*Chairman*

American Legion  
 Washington, DC.  
*August 17, 2009*

Honorable John J. Hall, Chairman  
 Subcommittee on Disability and Memorial Affairs  
 Committee on Veterans' Affairs  
 U.S. House of Representatives  
 337 Cannon House Office Building  
 Washington, DC 20515

Dear Chairman Hall:

Thank you for allowing The American Legion to participate in the Subcommittee hearing on June 18, 2009, entitled "Addressing the Backlog: Can VA Manage One Million Claims." I respectfully submit the following response to your Post-Hearing Question:

**Question 1:** Should veterans with claims pending adjudication temporarily be eligible for VA Health Care?

**Question 1(a):** Should mental health counseling be offered to all veterans enduring the stress of the VA disability claims processing system?

**Response:** The issue of providing health care to veterans with pending claims is of importance especially in the case of veterans who have been "locked out" of the VA health care system as a result of restrictions regarding the enrollment of Priority Group 8 veterans. As a result, service connection for conditions is one of the only means many veterans have to acquire health care for their conditions. The need is great in many such cases. An establishment of temporary eligibility for veterans would also be important to maintain focus on the large veterans' population regardless of era of service. Much attention is focused on Global War on Terror (GWOT) veterans now, as the current war naturally creates a point of focus. However, a much larger veterans' population exists from previous conflicts.

Presently, veterans returning from Operation Enduring Freedom and Operation Iraq Freedom (OEF/OIF) are entitled to 5 years of free VA Health Care from their

date of discharge. For various reasons, veterans do not always file for benefits during this period. These veterans could be locked out of health care while waiting for the lengthy claims process to end. Adding to the problem, recordkeeping for claims filed after a significantly long period of time from the date of discharge, often make these claims prone to delay in decisions.

The American Legion does not have a specific position regarding the eligibility of veterans with pending claims for temporary health care coverage. The expansion of the eligible pool of veterans for health care would be a significant benefit to those with real economic challenges.

Mental health access is currently offered free of charge to veterans at "Vet Centers" throughout the country. These centers are specifically designed to deal with mental disorders and stresses arising from issues such as combat and military sexual trauma (MST). However, as more veterans are diagnosed with Post Traumatic Stress Disorder and Traumatic Brain Injury, the additional assets to treat them will become critical. It is important to note that these centers, while hugely effective, are often strained to the limits of their resources. Additional assets would make more robust the capabilities to address this need. However, The American Legion would strongly caution that extreme care must be exercised to ensure that the primary purpose of these outreach locations, to care for veterans who have experienced life changing traumas in service, is not overshadowed by an attempt to care for the needs of veterans who experience the, also very real, stresses of a complex and frustrating disability benefits system.

**Question 2:** In your testimony, and in the article on the Backlog that appeared in the American Legion Magazine, the organization observes that piecemeal solutions do not work and that the approach should be to fix the entire system, but the testimony primarily focuses on the same solutions-additional staff and more training. So what does the American Legion recommend as a fix for the entire system?

**Question 2(a):** Do you think the provisions enacted by Congress in P. L. 110-389 were sufficient or is there other legislative changes the American Legion would like to see?

**Question 2(b):** Congress is familiar with the standard VBA requirement of 3½ weighted actions per day. Do you know how this number would be affected if the VA Raters took the necessary time to properly develop claims and review the evidence? What would you suggest the VA do to better assess its production capabilities?

**Response:** The referenced solutions of additional personnel and improved training are indeed helpful in reducing the numbers of claims. It is also correct that these measures alone are not sufficiently effective to fix the system and effect necessary changes. A more comprehensive answer is certainly needed. More personnel incorrectly processing claims will not remove claims from the system. Additional personnel take time to be properly trained. The sooner they can be put in place, trained, and retained, the more effective they will be to carry the VA through the tasks of the future. Additional targeted training for existing personnel with the goal of remedying specific errors and trouble spots is critical. Personal responsibility for quality not quantity, and ramifications for poor performance (again quality not quantity) should be the standard. Training should be relevant and targeted for maximum effect.

Outside of training and additional responsible personnel, there are additional components to reform that The American Legion has testified to be in favor of. First and foremost, the system that counts work credit the same whether the work is performed correctly or improperly must be corrected. In such a system, there is no incentive apart from individual initiative, to produce quality work. To the contrary, the incentive is to move cases along regardless of quality of work. This leads to cases being remanded and reworked adding to the workload, but not reducing the number of claims.

The American Legion has proposed a system in which work credit would be granted only when a claim has been finally adjudicated. In such a system, the incentive then becomes to ensure that every process has been executed to the best of VA's ability and that common procedural errors are avoided. Only then could VA receive credit. In the long run, this would reduce the backlog, as the need and eligibility for appeal and remand would be drastically reduced. If VA adopts this system, the focus would then become "do the job right the first time," when such as attitude prevails; there is no need for a second time.

Regardless, VA must develop, or be directed by legislation to develop, a system which does not provide credit for improperly executed work. Judge Kasold of the

Court of Appeals for Veterans' Claims (CAVC) has testified many times that the CAVC has an over 70 percent rate of overturning VA decisions. The most prevalent reason is not following the VA's own rules and regulations. Procedural errors repeated are the worst kind of errors, as they are correctable and avoidable in a culture that makes it its mission to do so. Whatever system is in place must create some penalty for improper work. Whether this penalty is some sort of negative credit or indeed a lack of acceptable credit is immaterial. What is important is that VA must not be allowed to continue to take credit for claims they are simply moving from inbox to outbox and denying veterans their rights in the system.

VA can also improve operations with attention to a reduction of unnecessary development. Legislation to reduce the development burden for proving the occurrence of events in combat zones is pending. This expansion of the special combat provisions already in existence would provide a needed streamlining of development for cases involving veterans with service in combat zones. The original provisions were created to reflect the unique problems of recordkeeping in a combat environment. Congress must act to ensure that the original intent of this combat provision is updated to reflect the modern battlefield and combat.

The addition of employees is indeed a boon to VA productivity. But, more important would be measures that use more effectively the staff VA already has. VA recently had its work environment examined by Booz Allen Hamilton in an effort to increase effectiveness of productivity. VA subsequently initiated a claims processing pilot, which is currently ongoing, at the North Little Rock Regional Office to test Booz Allen's recommendations. If the pilot program proves effective, it must be replicated and supported. Furthermore, VA must ensure it is retaining the staff it takes the time to train. There is no substitute for experience in a system as complicated as the veterans' claims process. VA must ensure they are competitive to gain and maintain quality employees in whatever region they are located. This is easier for some Regional Offices; however those in some highly developed urban areas are simply not competitive with private sector employers. Some means must be developed to compensate quality employees commensurate with abilities to attract them from the private sector competition.

Training too must see an overhaul. Accurate accounting must be made of the points of failure in the VA system. Immediate action must be taken to correct those points of failure. A common complaint among VA employees as uncovered in The American Legion's Quality Review visits to Regional Offices is redundant training that the employees do not find relevant to day to day problems and issues. Training must be accurate, current and targeted. Furthermore, VA would be only addressing part of the issue if they looked solely to training on technical aspects of the claims system. The ability to address how employees go about their workload planning should also be addressed.

To that end, VA should further examine their means of triage in determining what is needed in a claim and how it should be processed. The ability to direct claims within a Regional Office to where they may be most effectively adjudicated would be critical to increased efficiency.

This triage could also identify claims more effectively which could be granted outright with minimal development. As The American Legion has noted repeatedly in testimony, VA will frequently order additional exams and development when the existing necessary material is already "in hand," to grant and rate the claim. This additional work creates unnecessary delays and clogs the system with claims that could be expedited. For example, a veteran of the Vietnam War "Boots on the Ground" service meets the VA's policy for presumptive requirements for service connection for diabetes mellitus type II. If such a veteran submits, along with proof of "on the ground service," current treatment records by their private physician for diabetes, there is sufficient information to grant service connection and rate the veteran's condition. However, often in cases such as this, VA will schedule an apparently unnecessary VA exam to determine the existence and extent of the diabetes, and add months to the process. However, if it is determined that an exam is needed to address diabetic complications, a claim for secondary service connection can easily be deferred, pending the exam, but VA can still rate the diabetes based on the sufficient private medical records and start paying the veteran. The ability to filter unnecessary development would contribute greatly to a reduction in the overall volume of claims in the system, and restore goodwill and trust in the veterans' community with regards to their benefit system.

The enactment by Congress of the "Veterans' Benefits Improvement Act of 2008" (PL 110-389) has the potential to improve the system for veterans; it is still early in the process. Many of the programs involved exist only in pilot stages. Improvements in temporary ratings provide some relief to veterans as they struggle through the lengthy and complicated process. For those veterans who succumb to conditions

before a final decision is made, their families are able to continue the claim under the new regulations which allows the substitution of a claimant in the event of a veteran's death.

The fully developed claims pilot program does have the benefit of addressing matters such as the diabetes as in the mentioned case. While this program shows promise, it is still too early to tell the effectiveness of this measure. If this program is truly effective, full support of the program will indeed contribute to a reduction of the backlog by correcting similar errors. If additional problems develop during implementation, then these issues must be addressed until it is determined that the claims process is completely fixed.

With regard to the issue of "properly develop[ing] claims and review[ing] the evidence" we have no hard numbers on how doing this would affect the current VA standard of 3½ weighted actions per day. However, a standard that only measures volume with no regard for quality work is not in our opinion a valid standard and therefore has no merit as a basis for measuring work output. Good business practices would question the validity of pointing out the number of mistakes made every day as a production goal. If there is to be no regard for accuracy of work, why concern yourself with quality at all? If numbers are all that counts, then an employee rubber-stamping the top sheet of paper could easily process dozens of cases every day. While being obviously facetious, this example is by no means our opinion of what VA is doing, the point is taken.

VA must adopt a system of recordkeeping that accounts solely for work properly done. As stated, whether this system only counts end credit work for claims properly and finally adjudicated, or counts all work claimed, but imposes penalties and subtractions when work is found to be faulty, it still must be an honest accounting. This will require a period of adjustment. We are not unsympathetic to the necessity of looking at the numbers returned in a different light. It is quite possible that numbers would fall. However, a fair comparison of numbers would take into account the accuracy involved.

Judge Kasold states that over 70 percent of claims sent to the Court of Appeals for Veterans' Claims are returned for having been improperly handled by VA and are therefore remanded for further development and adjudication. Therefore, of the 3½ weighted actions per day, only 1 of those actions is an accurate and properly adjudicated action. If VA's production dropped from 3½ weighted actions per day down to 2 weighted actions, but those 2 actions were properly done, it would actually be an increase in productivity. This new number would represent work that was done properly and that could be removed from the system. In the short term, it would appear as a loss in volume output, but as a long term solution, the overall backlog would decrease because VA would be doing their job properly and alleviating the need for lengthy appeals.

**Question 3:** You reported in its review of recently adjudicated American Legion represented claims, the Quality Review Team found errors in 20-30 percent of the cases reviewed. If you could design the perfect system what could VA do to change its "emphasis of quantity over quality of work" that you talk about in your testimony?

**Response:** The sample of work described previously was from one Regional Office, although those numbers are not atypical and are even worse in some places. As we have stressed throughout our testimony, VA places their emphasis on "quantity over quality." The pervasive attitude is not to do a claim correctly, but to move it off of the employee's desk on to the next step. The way to change this attitude is eliminate credit for invalid work. Simply put, VA cannot continue to claim credit for work that it repeatedly does improperly. The manner of correction is relatively simple, though it would require a paradigm shift in understanding of how to count claims. VA must be denied the ability to point to "work credit" for improperly adjudicated claims. In a "perfect" system, VA would receive credit when a claim had been finally adjudicated. Only, when it has been shown that VA did their job right. If this represents too great a shift in the counting of credit, VA could continue to count work credit as they currently do; *however* they must also take penalties and reductions in their numbers when faulty work is identified.

The time has come to end VA's ability to hide behind inaccurate numbers that don't reflect reality. Sloppy adjudication, repeated procedural errors and easily corrected fundamental problems in execution all clog the claim system. This needlessly frustrates the veterans of America, undermines their trust in the government they served. By creating a work credit system that holds VA accountable for its errors, we would begin to shift the attitude within VA that place a greater priority on moving numbers, to an overarching outlook of properly and accurately serving the vet-

erans who come to them for their deserved benefits. The backlog faced is indeed monumental, and while seemingly insurmountable we must all work to slowly chip away at the monolithic obstacle. However, just because work is difficult does not mean it should be avoided. It is always better to do the hard "right" thing than the easy "wrong" thing.

As always, The American Legion thanks you for the opportunity to provide response to these questions and to provide testimony on this matter. If there are any further questions to be answered, or if any further clarification is needed, we would be happy to answer those questions or provide that clarification.

Thank you for your continued commitment to America's veterans and their families.

Sincerely,

Ian DePlanque  
*Assistant Director, National Veterans Affairs and Rehabilitation*

Committee on Veterans Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
*July 20, 2009*

Kerry Baker  
Assistant National Legislative Director  
Disabled American Veterans  
807 Maine Ave., SW  
Washington, DC 20024

Dear Mr. Baker:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs hearing on, "Addressing the Backlog: Can VA Manage One Million Claims?" held on June 18, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Monday, August 17, 2009.

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Sincerely,

John J. Hall  
*Chairman*

**Questions from the House Committee on Veterans' Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Hearing on "Addressing the Backlog: Can VA Manage One Million Claims?"  
June 18, 2009**

**Question 1:** What is the feasibility of implementing the proposed centralized information system that DAV mentioned in its testimony?

**Response:** It is very feasible. The technology to transition from the cumbersome paper process system to a digital system of records is available. A digital claims system is already in use by the Social Security Administration.

Such a system should be secure, simultaneously accessible from every VA Regional Office, appropriately organize data, provide automated tools for more rapid review with a rating official making the appropriate disability rating determination, and searchable.

**Question 2:** In its testimony, the DAV mentioned that the opt-out clause, which provides that evidence submitted after the appeal will be forwarded to the BVA unless the appellant elects to have it considered by the RO, would result in reduced appellant lengths and nearly 100,000 reduced VA work hours by eliminating the requirement to issue most supplemental statements of the case.

**Question 2(a):** How did you calculate the estimated 100,000 hour reduction?

**Response:** The 100,000 work hour reduction, based on the elimination of Supplemental Statement of the Case (SSOC), was a conservative estimate of the number of SSOCs produced by VBA. Secondly, a standard of 1-hour of work per single issue SSOC was also used in this calculation. Although the VBA states it issued over 48,000 SSOCs in FY 2008, the numbers of SSOCs is significantly larger as the VBA cannot track the actual number of SSOCs beyond five in Veterans Appeals Control And Location System (VACOLS) I have seen as many as 12 in some case files, well beyond their current limit of five. This is the same experience of many VSO's. Additionally, the 1 hour of work for a one issue SSOC is conservative as SSOCs more often have many more issues than the one. So, the estimate of saving 100,000 work hours can be found either by counting all SSOCs processed by VBA (an impossibility with VACOLS) and/or calculating the increased number of hours necessary to produce SSOCs with multiple issues as opposed to one.

Additionally, the work hours to create SSOCs rise exponentially depending on the complexity of the claim in question. So, 1 hour of work per single issue SSOC equals 100,000 work hours saved is a conservative number indeed.

**Question 2(b):** What would be the consequences, as far as time and cost, of a claim defaulting to the BVA when newly submitted evidence would have permitted an RO to make conclusive determination?

**Response:** Regional Offices do have the ability to make a decision on a case when new evidence is submitted and this should continue as claim circumstances dictate. It has been our experience however that once the RO renders an adverse decision, they rarely reverse that decision.

We are bringing in consultants to review and validate the current claims process as well as provide further detail on proposed revisions to include time and cost.

**Question 3:** You recommend disbanding the AMC and returning remands to their respective jurisdictions. If your proposal is implemented, how would the current rating teams' performance be affected by the increased burden and would your system require additional teams?

**Response:** It is true that there would be an initial surge in cases from the AMC to each of the 57 Regional Offices. However, savings in other areas would provide the room necessary to absorb this temporary increase. With changes to the work credit program also in place, performance would improve through this enhanced accountability, possibly resulting in greater ratings accuracy and reduced appeals.

Given the continued poor performance of the AMC, what is the better choice? By the end of January 2009, they had approximately 22,600 remands on station. The AMC completed nearly 11,700 appeals, out of which 9,811 were returned to the Board, 89 were withdrawn and only 1,789 were granted. Of that 2,500 appeals were returned to the AMC a second time because of further errors in carrying out the Board's specific instructions. A 25 percent error rate makes a better argument for closure of the AMC.

Committee on Veterans Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
*July 20, 2009*

Lieutenant General James Terry Scott  
Chairman  
Advisory Committee on Disability Compensation  
810 Vermont Ave., NW  
Washington, DC 20420

Dear Mr. Scott:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs hearing on, "Addressing the Backlog: Can VA Manage One Million Claims?" held on June 18, 2009. I would

greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Monday, August 17, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your responses to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
*Chairman*

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U.S. Department of Veterans Affairs  
Advisory Committee on Disability Compensation  
*August 14, 2009*

Honorable John J. Hall  
Chairman  
Subcommittee on Disability and Memorial Affairs  
Committee on Veterans' Affairs  
U.S. House of Representatives

Dear Chairman Hall:

I am responding to your letter of July 20, 2009, requesting that I provide answers to follow-up questions from the hearings held on June 18, 2009.

**First Question:** At the hearing, you stated that VA needed to make changes by starting from a date forward and just make it work. Have you had that discussion with the VA Secretary and will that philosophy permeate any recommendations for implementation the Advisory Committee will make?

**Response to First Question:** The context of the question was the expression of concern about VA's apparent reluctance to commence electronic only files for veterans. I have discussed the concept of electronic only files with the Undersecretary for Benefits and the Director of C&P, both of whom agree that commencing electronic only files from a date certain forward is a good idea. Their concept is that older files would be converted from paper to electronic only when and if the veteran concerned filed a claim. At that time, the file would be converted to electronic for processing the claim. That philosophy will be included in Committee recommendations.

**Second Question:** Is there a process in place for a VA response to the Advisory Committee recommendations or to give feedback to the Advisory Committee in terms of what is or is not feasible for VA to implement? Is there a process in place by which VA leadership can submit questions to the Advisory Committee to get an opinion on its options?

**Response to Second Question:** There is a process in place for a VA response to the Advisory Committee recommendations and to give feedback to the Advisory Committee in terms of what is or is not feasible for VA to implement. The Advisory Committee submits periodic reports to the Secretary. The Secretary responds to the reports in writing. Also, there is continuing dialog between the Committee and the Undersecretary for Benefits and the Director of C&P. This informal feedback includes discussion of feasibility of Committee recommendations. VA leadership may submit questions or issues for Committee opinion or recommendation via the same formal and informal channels.

**Third Question:** What are the fundamental changes the Advisory Committee foresees for the Rating Schedule?

**Response to Third Question:** A fundamental change the Advisory Committee foresees for the Rating Schedule is the establishment of a process and a schedule for timely review and update of the Schedule. In the first report to the Secretary,

the Advisory Committee recommended a methodology and a priority for reviewing and updating the Schedule. The Advisory Committee has recommended that the Deputy Secretary be given the responsibility for insuring VBA and VHA coordination in the process since it depends on the continuing cooperative effort of both entities. Another fundamental change that the Advisory Committee will recommend is that the Rating Schedule be updated to reflect modern medical terminology, classification, diagnostic tools, and functional scales. The Advisory Committee expects to recommend further fundamental improvements in related processes such as training programs, information technology support systems, and medical exam protocols.

Results of studies conducted by the Center for Naval Analysis for the VDDB and by Econ Systems indicate that the current compensation system for disabled veterans fairly reflects the average loss of earnings capacity (with some noted exceptions which will be addressed in future recommendations). Since the present system offers horizontal and vertical equity in most cases, there is no reason to throw out the entire existing system and attempt to replace it with a totally new one.

Sincerely,

James Terry Scott  
*Chairman*

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Committee on Veterans Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
*July 20, 2009*

Marilyn Park  
Legislative Representative  
American Federation of Government Employees  
80 F Street, NW  
Washington, DC 20001

Dear Ms. Park:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs hearing on, "Addressing the Backlog: Can VA Manage One Million Claims?" held on June 18, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Monday, August 17, 2009.

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Sincerely,

John J. Hall  
*Chairman*

**HOUSE COMMITTEE ON VETERANS' AFFAIRS**  
**SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL**  
**AFFAIRS**  
**JUNE 18, 2009, HEARING**  
**ADDRESSING THE BACKLOG: CAN VA MANAGE 1 MILLION CLAIMS?**  
**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**  
**POST-HEARING SUBMISSION**

**Question 1:** The implementation of an independent evaluation of VBA training should have already begun. Has the AFGE been involved in this process? Have you made the suggestions that are contained in your testimony to VBA managers and, if so, what was the response?

**Response:** On July 27, 2009, AFGE was briefed by the Government Accountability Office regarding their survey of VBA employees for a report on the efficacy of VBA training. During that briefing AFGE was also solicited for input concerning the scope of the survey and for insights concerning VBA's current training structure. While GAO seemed receptive to AFGE's insights and concerns, the content of their survey was already determined and the briefing seemed for the most part to be in the interest of full disclosure. Nonetheless, AFGE is grateful that GAO is preparing an objective report concerning VBA's training process, and is fairly confident from our briefing that GAO has a good working understanding of that process.

AFGE as an organization and our individual members have made numerous suggestions to VBA management over the years in hopes of improving the quality of training provided to claims processors. However, we have found that our most effective means for making such suggestions is through Congressional forums such as those we have recently been privileged to attend. Our experience is that when our suggestions are presented in hearings before this Subcommittee, VBA management is, at least superficially, receptive to them.

Moreover, our recent experience suggests that there is a growing consensus among members of VBA's Compensation and Pension Service accepting the wisdom of our suggestion that all training be conducted by staff assigned to Compensation and Pension Service who are not influenced by the productivity concerns of Regional Office Directors (whose productivity requirements are set by the Office of Field Operations). However, since VBA's Office of Field Operations (OFO) is ultimately responsible for determining how and where employee and training resources are allocated throughout VBA, we have limited optimism regarding whether any of our suggestions will ever come to fruition. Our impression is that OFO remains rather myopic in their continuing refusal to properly allocate resources toward continuing training and employee development, and instead focuses on ways of making short term gains in reducing claims inventory, e.g. abrogating scheduled training so that employees can devote their time toward achieving short term productivity requirements.

In conclusion, unless and until VBA as a whole reaches a consensus that the best way to serve veterans is to give them the correct decision the first time and that in order to do so employees must be properly trained and continuously educated, any optimism we have regarding VBA's serious consideration of our suggestions will be guarded at best.

**Question 2:** In its statement, the AFGE noted concerns over employee morale, which can affect production and performance. What can VA do specifically to improve morale for individual employees at each regional office?

**Response:** Morale varies widely among Regional Offices (RO) and the root causes of deficiencies in morale at individual Regional Offices may be as varied as the personnel who staff them. However, in general, VBA can improve the morale of its employees by simply treating them with respect.

Treating employees with respect implies listening to their suggestions about how to improve service to veterans and acting on meritorious suggestions. VBA management must at some point accept that the real subject matter experts of the claims process are the people who do the work on a daily basis and solicit their input regarding how to make the process more efficient.

Improving employee morale at VBA requires setting productivity standards based upon objective empirical evidence about what people can reasonably be expected to accomplish with an acceptable degree of accuracy, as opposed to arbitrarily setting productivity standards based on the size of a pending inventory and the number of available employees. Adequately staffing ROs and effectively training staff will improve employee morale.

Morale also can be improved by recognizing when employees are diligently working to maintain a level of quality that provides the service veterans deserve instead of issuing reprimands for failing to meet productivity objectives that are unachievable with any acceptable level of accuracy. Recognizing and rewarding employees for the quality of their work and not merely because of the number of cases they complete, correctly or incorrectly, will invest them with justified pride in the work they do. Investing every VBA employee with a stake in the proper outcome of a claim decision as opposed to merely crediting them for completing a step toward an eventual decision, be it right or wrong, will improve their morale.

Acting in real partnership with AFGE representatives to alleviate tensions in the workplace and anxieties induced by necessary changes will help VBA employees better adjust to the flux of the claims process. Abiding by promises made to employees when they are hired concerning their salary, career ladder progression, and the training they will receive to successfully serve veterans and navigate their chosen career path will infuse them with good will toward their managers.

Ultimately VBA management must accept that AFGE members, most of whom have no aspirations beyond performing well in their current positions and doing their duty to serve veterans, have a dignity and work ethic that is unsurpassed in the Federal workforce. Our members are dedicated to helping veterans. That dedication deserves respect, aid, and recognition from those who "manage" our workflow. Veterans recognize our dedication every day by writing letters of thanks directed toward the efforts of individual claims processors, and those letters do much to boost our morale. However, the gratitude that veterans regularly express for our efforts should be supplemented by effective aid from VBA management directed toward helping us better serve our constituency.

In closing, morale of AFGE members at VBA is dependant on how well we address the needs of veterans. VBA management must accept that our interest is in getting things right the first time, since that is how we believe we best serve veterans. VBA management must provide us with the time, training, and recognition necessary to do so.

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Committee on Veterans Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
*July 20, 2009*

Michael Walcoff  
Deputy Under Secretary for Benefits  
Veterans Benefits Administration  
U.S. Department of Veterans Affairs  
810 Vermont Ave., NW  
Washington, DC 20420

Dear Mr. Walcoff:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs hearing on, "Addressing the Backlog: Can VA Manage One Million Claims?" held on June 18, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Monday, August 17, 2009.

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Due to the delay in receiving mail, please provide your responses to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
*Chairman*

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**Questions for the Record**  
**Hon. John J. Hall, Chairman**  
**Subcommittee on Disabilities and Memorial Affairs**  
**House Committee on Veterans' Affairs**  
**June 18, 2009**

**Addressing the Backlog: Can VA Manage One Million Claims?**

**Question 1:** At the hearing, VA was asked how many Vietnam Veterans are there in the inventory, how many are PTSD related, and how many Veterans committed suicide while awaiting an adjudicative decision. Were you able to ascertain these figures?

**Response:** As of June 30, 2009, there were 163,440 original or reopened claims for compensation or pension from Vietnam-era Veterans in the Department of Veterans Affairs' (VA) inventory. Of those, 32,485 included a claim for Post-traumatic stress disorder (PTSD). With regard to identifying how many Veterans committed suicide while awaiting an adjudicative decision, VA does not have sufficient data to develop a reliable figure at this time. We are continuing to research this issue and intend to provide you the results of our analysis within the next 60 days.

**Question 2(a):** Is there a VBA strategic plan? Is the Paperless Delivery of Veterans Benefits Initiative incorporated into an overall VBA strategic plan?

**Response:** The Veterans Benefits Administration (VBA) is in the process of developing a strategic plan, and it will incorporate the paperless delivery of Veterans benefits initiative. The strategic plan will align objectives and action plans to improve VBA infrastructure and information technology to enable employees to provide timely and accurate service. Objectives will include migrating from a paper-intensive claims process to an integrated claims process supported with electronic data and services, as well as improving ease of use, consistency, and reliability of VBA business applications through integration and standardization of common services.

**Question 2(b):** Is this paperless initiative being aligned with efforts to revise the Rating Schedule and the work being done on the electronic exam templates?

**Response:** One of the strategic goals of the paperless initiative is to transform key aspects of the claims adjudication business process by expediting the implementation of regulatory and policy changes. As revisions in the rating schedule continue to occur, VBA will make it easier for end users to access electronic, online policy and procedural changes. End users are encouraged to use electronic reference materials and other electronic resources (such as electronic exam templates), and VBA is currently engaged in a pilot program to determine best practices for reliance on such material during the claims adjudication process.

**Question 2(c):** Is the lead systems integrator that is being developed by EDS and the MITRE Corporation VETSNET project being included in the Joint Virtual Lifetime Electronic Record initiative? Will the architecture system being designed by EDS be compatible with the nationally recognized set of uniform and open standards for information exchange as is used by HHS?

**Response:** We interpret this question to be in regard to the paperless initiative, not VETSNET. The joint virtual lifetime electronic record (VLER) program is an Office of Policy and Planning led initiative within VA with the Veterans Health Administration (VHA) Office of Health Information (OHI)—in partnership with the Department of Defense (DoD). The current paperless initiative requirements do not yet reflect how the program will integrate with VLER but this will be addressed by VA's Office of Enterprise Development as technical solutions are developed. VLER intends to use open architecture and standards-based methodologies.

The lead systems integrated contractor (LSIC) for the paperless initiative is charged with designing an enterprise solution using VA-approved enterprise architecture standards. The LSIC (EDS) was issued a stop work order on July 27, 2009, and alternate courses of action for this area of the initiative are being evaluated by senior leadership. The architecture system being designed for paperless will be compatible with the nationally recognized set of uniform and open standards for information exchange.

**Question 2(d):** How will the Lean Six Sigma Pilot fit into the new office of strategic planning VBA recently created?

**Response:** Booz Allen Hamilton conducted a review of VBA's compensation rating claims development process and provided recommendations in a June 2009 report. The overall process recommendation was to apply Lean Six Sigma production practices to claims processing. In July 2009, VBA launched a pilot at the Little Rock Regional Office (RO) applying Lean Six Sigma principles to streamline claims processing. If the pilot is successful, Lean Six Sigma principles will be applied nationwide and incorporated in VBA's strategic plan.

**Question 3:** How are non-rating functions captured for employee work credits and how are they weighted? Does a different team handle the non-rating workload or is everyone expected to devote a certain amount of time to these tasks?

**Response:** Currently, VBA's ROs are organized according to the claims processing improvement (CPI) model. This model separates work into six teams: triage, pre determination, rating, post determination, appeals and public contact. Nearly all non-rating work is completed by the post-determination team. Work is tracked in the automated standardized performance elements nationwide (ASPEN) system. VBA has a national performance standard with weighted actions for all Veterans service representatives. More complex actions carry greater weight and each employee is expected to complete a minimum amount of weighted actions (on average) per day, based on their pay grade.

**Question 4:** At the hearing, the Subcommittee requested a copy of the Booz Allen Hamilton study. Can you please provide the Subcommittee with a copy?

**Response:** See attached report. [The report will be retained in the Committee files.]

**Question 5:** If VBA is adding 80,000 new claims each month to its inventory, how many decisions are you making each month? What percentage of those are awards and what percentage are denials?

**Response:** VBA is completing an average of nearly 80,000 claims per month during fiscal year (FY) 2009, a 10.3-percent increase from FY 2008. VBA is receiving an average of more than 82,000 claims per month in FY 2009. Through June 2009, VBA has received 744,000 claims, a 14½-percent increase over receipts through June 2008. This means that VBA is receiving approximately 2,000 more claims per month than are completed.

During FY 2008, VBA completed 899,863 claims, which required rating decisions on more than 2 million individually claimed issues. Forty-five percent of issues claimed (935,976) were granted from 0–100 percent. During FY 2007, VBA completed 824,444 rating-related claims. Completion of these claims included rating decisions on nearly more than 1½ million issues, of which 48.4 percent (757,470) resulted in a grant of benefits from 0–100 percent.

**Question 6:** What steps are you taking to ensure that you will meet its 125-day target goal by the end of the next fiscal year? What remedial actions will you take for those regional offices who do not meet this target?

**Response:** VBA's current strategic target for average days to complete (ADC) is 125 days. VBA determined this target by adding the individual phases (or cycles) each claim travels through before completion, including the time spent awaiting evidence from the claimant or a third party. In addition, VBA considered the increasing complexity of claims received and changes in applicable laws and regulations, including the implementation of the Veterans Claims Assistance Act, enacted in FY 2000.

Through June 2009, the ADC this fiscal year is 161.3 days, which is the lowest since October 2004. VBA has seen a steady decline in ADC since a high of 182.6 days in March 2008. This steady improvement is attributed to the nearly 3,500 new claims processing employees hired since January 2007. Since it takes at least 2 years for a new employee to become fully trained in all aspects of claims processing, VBA is only now beginning to see the impact of employees hired in 2007 as they become fully trained and experienced employees. Due to the significant number of employees hired since 2007, VBA expects to see continued improvements as these employees continue to gain experience.

VBA has also increased the use of overtime for claims processing and allowed experienced retired employees to return to work as claims processors. VBA has consolidated aspects of the workload (original pension claims, survivor benefit claims and general inquiry phone calls) to increase expertise in the specific areas, and refocus efforts at regional offices on the remaining benefits. VBA has also employed

a “brokering” strategy, which balances out the workload by sending cases from those stations with high inventories to stations with additional processing capacity.

Each fiscal year, VBA establishes ADC targets specific to each office. Targets are set to maintain high performance at ROs already meeting the strategic target and to incrementally improve timeliness at the other ROs. At the end of the year, RO performance is evaluated against the established station target. At the end of June 2009, 12 stations, or 21 percent were meeting the strategic target, and 30 stations were meeting its end of year station-specific target.

**Question 7:** Failure to consider inferred claims is an issue often raised—including by Compensation and Pension examiners. What has been done to allow examiners to be able to document a condition found during an exam that was not included on the initial request?

**Response:** A general medical examination containing a full report of complaints and functional impairments is the preferred type of examination in cases concerning original compensation claims received within 1 year of discharge. The general medical exam is a comprehensive base line or screening examination for all body systems, as well as a basic evaluation of all disabilities listed on the examination request form. The exam should identify all disabilities whether documented on the exam request or not. It is often the initial post-discharge examination of a Veteran requested by the compensation and pension service for disability compensation purposes. For claims filed after the first year following discharge, a specialty examination is scheduled to evaluate the specific issue claimed. Therefore, unclaimed issues are not routinely assessed during specialty exams unless they are direct complications to the claimed condition. As a screening examination, it is not meant to elicit the detailed information about specific conditions that is necessary for rating purposes. Therefore, all claimed conditions, and any found or suspected conditions that were not claimed, should be addressed by referring to and following all appropriate worksheets.

The examiner may request any additional studies or examinations needed for proper diagnosis and evaluation. All important negatives should be reported. If an unclaimed condition is found on an exam, the issue can be rated or at a minimum a claim for disability is solicited from the Veteran, depending on the examiner's findings.

**Question 8:** As discussed at the hearing, can you provide the Committee with additional information on the claims processing laboratory being established at the Providence, RI Regional Office?

**Response:** The business transformation laboratory will allow VBA to test new business processes and claims processing hypotheses to enable seamless paperless processing of Veterans claims. Currently available technology will be used in some circumstances to simulate the planned technology environment. The goal of this activity is to provide a “lab” environment where business processes can be developed and optimized prior to national implementation. The effort will allow us to implement work processes, some using current technology, to understand impacts on employees, service delivery partners, and performance metrics. The effort will be implemented with close oversight in order to document best practices and lessons learned. A current effort is underway to evaluate the impact on employees of using only electronic reference materials to process claims. Over the coming months, a variety of work processes will be evaluated, to include enhanced claims triage methodologies and end-to-end workflows.

**Question 9:** Does VBA currently have the capacity to begin scanning new claims entering the system? Can scanning be key word classified?

**Response:** At the present, the Office of Information and Technology (OIT) has asked that we not add any new imaging activities to the current virtual VA paperless claims processing environment. OIT has implemented a stabilization plan for virtual VA to reduce the performance issues with the application. In parallel, OIT and VBA determining the best near-term course of action with respect to not only the imaging of documents, but ensuring these images can be used to support the claims process.

Documents are scanned as images into virtual VA in either a portable document format or a tagged image file format. Although currently not employed, the technology exist which can provide automatic classification through a form-based or character-based recognition engine. VBA has contracted for manual indexing or “classification” based on document type. These requirements will be re-examined as

new capabilities are strategically introduced through the paperless delivery of Veterans benefits initiative.

**Question 10:** What is your employee rate of attrition?

**Response:** The FY 2008 VA employee attrition rate was approximately 9 percent. Attrition rates vary by geographical area, position type, and years of experience. Historically, VBA attrition rates in the claims processor job classifications have averaged 10 percent.

**Question 11:** What is the status of the VA's efforts to develop a skills certification exam for managers? Who is involved in design of the test and who will be required to take the exam and who will not be required to take the exam, and why?

**Response:** In January 2009, VBA let a contract to HumRRO to develop, test, and deploy a certification exam for managers. HumRRO has provided support and development for multiple other VBA certification exams. VBA also established a manager skills certification design team comprised of employees from ROs, VBA human resource centers, and central office. The first certification item writing session was held July 28–29. The remaining two item writing sessions are scheduled for August 2009.

The initial pilot test for the certification exam is on schedule for November 5, 2009. Only first line supervisors who have at least 1 year of experience as a manager will be required to take the exam. Individuals with less than 1 year of experience in supervision are not required to take the exam since they do not have the necessary human resource/labor relations training, which is approximately 20 percent of the exam. After successful deployment of the first line supervisor certification exam, other managerial certification will be examined.

**Question 12:** What mechanisms are currently in place to ensure that RO managers comply with new employee and current employee training requirements in terms of number of hours set aside for training? What steps are taken to ensure sufficient qualifications of trainers?

**Response:** Newly hired VBA employees attend centralized training at the VBA Academy for 2½ weeks of classroom instruction and practical exercise. Centralized training is preceded by a clearly defined curriculum implemented under supervision at the students' home station and followed by continued training and practical exercise upon return to the home station.

Instructors selected to train new employees at centralized training are required to have completed VBA's instructor development course (IDC). The purpose of the IDC is to provide VBA trainers with the knowledge and skills to conduct training effectively. The course is 4½ days long and covers topics such as training methods, understanding your adult learner, training media, and managing learner interactions. Additionally, VBA conducts a basic instructor course (BIC) aimed at training experienced employees tasked with providing continuing training to journey level employees locally.

The designated training manager (TM) at each RO plays a key role in the development and maintenance of the RO's training plans. Responsibilities of the TM include training program administration, oversight, evaluation, quality assurance, and technical support. The TM also provides the current training status for all employees to management and is the point of contact for all local, area, and/or nationwide training initiatives.

To track training, VA uses the learning management system (LMS). LMS offers many benefits to VA, including Web-based learning content and the automatic recording of learning progress from that content. RO directors are responsible for establishing training plans at the beginning of each fiscal year and for ensuring that current employees complete the designated number of core technical training requirement (CTTR) hours. For most employees, an annual 80-hour training requirement exists. Three-fourths of these training hours are dedicated to required technical training. CTTR hours are entered into LMS. RO director performance standards include employee development and training as a critical element of successful performance.

Mandatory training for employees is automatically uploaded into individual learning plans and a completion date is provided. To assist employees, LMS generates automatic email message reminders of mandatory training as well as any past due training. In addition, LMS sends an email message to supervisors when training is past due.

**Question 13:** What is the status of the VBA time and motion study that was discussed at a previous hearing and referenced in the AFGE testimony?

**Response:** Public Law 110-389, the Veterans' Benefits Improvement Act of 2008, was passed on October 10, 2008. The law mandated a study of VBA's work credit and work management systems under section 226. VBA contracted with the Center for Naval Analyses to perform this study, which will be delivered to VBA on September 30. VBA will analyze the study and results to determine appropriate action needed, including assessing the need for another time-and-motion study. The final report will be provided to Congress no later than October 31, 2009.

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Committee on Veterans Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
*July 20, 2009*

Rear Admiral Gregory Timberlake, SHCE, USN  
Director  
DoD/VA Interagency Program Office  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301

Dear Mr. Timberlake:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs hearing on, "Addressing the Backlog: Can VA Manage One Million Claims?" held on June 18, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Monday, August 17, 2009.

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Due to the delay in receiving mail, please provide your responses to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
*Chairman*

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**Questions from the House Committee on Veterans' Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Hearing on "Addressing the Backlog: Can VA Manage One Million Claims?"  
June 18, 2009**

**Question 1:** For several years, VA and DoD at their Joint Executive Council have been strategizing Seamless Transition with a key component being a shared electronic record. The best it seems that they have been able to come up with thus far is to create patches between VistA and AHLTA. What is the vision for making a Virtual Lifetime Electronic Record actually happen?

- a. Will it require both Departments to use the same information technology architecture system or will two separate systems be able to completely function jointly?
- b. Can you provide more of an explanation of definition of data sharing requirements and effective synchronization of schedules?

**Answer:** The Vision:

*"Both Departments will work together to define and build a system that will ultimately contain administrative and medical information from the*

*day an individual enters military service throughout their military career, and after they leave the military.”*

—President Barrack Obama, April 9, 2009

In June 2009, the Deputy Secretaries of Defense and Veterans Affairs approved a strategic concept for VLER, and asked the two Departments to define high level requirements, develop a synchronized budget proposal, identify short-term projects, and revise the IPO's Charter. The Departments and the IPO are currently working through those four areas and will seek further guidance from the Deputy Secretaries and the VA/DoD Joint Executive Council.

a. The Architecture:

The focus is sharing data using the Nationwide Health Information Network (NHIN). Progress is being made with the Departments of Defense, Veterans Affairs, and Health and Human Services to agree to use a nationally recognized set of uniform and open standards for information exchange, such as those being implemented by the Department of Health and Human Services' Nationwide Health Information Network. This approach will enable DoD and VA to create an architectural framework that is capable of sharing electronic health data with both the private sector and other governmental agencies.

b. Data Sharing Requirements and Synchronization of Schedules:

The first increment of this effort is described as the use of the NHIN to begin sharing electronic health information in a limited number of sites. The Departments are in the initial stages of developing the specific data-sharing requirements and synchronizing their schedules for VLER. The first increment of VLER will be characterized by creating production pilots with incremental extension of available content using the NHIN approved documents and standards. To support this effort, VLER will be developed through multiple overlapping sub-phases (or segments) in order to establish the baseline capabilities that are required to realize the long-term VLER mission. Each segment will have overlapping initiatives and will be defined with completion dates approximately every 6 months. By decomposing in this manner, each initiative will be able to capitalize on the evolving capabilities and lessons learned from other initiatives. Although this approach should enable the Departments to develop the final VLER state in manageable segments with ongoing successes, close oversight and coordination of all the initiatives must occur to ensure these objectives are met.

**Question 2:** Can you give me a clear mission statement for the IPO along with the goals and objectives that you intend to meet and how the Departments will manage the challenges you enumerated and the timeframe for meeting those goals?

**Answer:** To date, the IPO's primary role in interagency data sharing is performing oversight and management of DoD/VA plans and activities associated with attaining interoperability of electronic data. It is important to understand the Departments are still responsible to develop their own requirements and implement the IT solutions throughout the Military Health System and the Veterans Health Administration. The IPO does not build IT products; we help coordinate and oversee the IT products needed to improve the provision of clinical care are accomplished according to the schedule and specifications agreed to by the Departments and accepted by our senior leaders.

To do this, IPO staff work with both Departments on joint activities like ensuring schedules and funding considerations are coordinated, assisting in obtaining input and concurrence of stakeholders, communicating data sharing gaps in capabilities for future planning, reporting progress, and raising items not being resolved within the Departments to the Deputy Secretaries and the Joint Executive Council.

Our mission was expanded twice, first to include oversight and management of personnel and benefits data sharing activities, and most recently to work with the Departments to develop an effective governance and management model for the Virtual Lifetime Electronic Record (VLER).

The main challenges to accomplishing these goals are as follows:

- Developing, adopting, and maturing standards to ensure efficient operational use.
- Updating capabilities, systems, infrastructure, and technology consistent with emerging standards.
- Identifying and prioritizing information requirements for sequential upgrades to new technologies and common services, as defined by the business process owners and the functional community.

Work has already begun on the development and adoption of national standards and collaboration with the Department of Health and Human Services and the Departments is a critical component of success, and this work will continue.

DoD and VA are currently funding short-term solutions and improvements to their respective electronic health record systems. Electronic health record interoperability at the present time is accomplished by ensuring the access to data using mechanisms such as the Bidirectional Health Information Exchange (BHIE).

The data are shared bidirectionally, in real time, for patients who receive care from both VA and DoD facilities and are viewable at all DoD and VA medical facilities. BHIE permits DoD providers to view BHIE data from all VA medical facilities and VA to view BHIE data from all DoD facilities. The Departments will continue to use and upgrade their current EHRs to provide and document clinical care while the way forward for sharing through the NHIN is being implemented. The evolution to the VLER will be incremental.

**Question 3:** In reality DoD in and of itself is not a single system. Each branch of the service has its own electronic record and data management systems. This is also true for the VBA, which has just contracted for an integrator to align all of its systems. Will each branch be required to standardize its systems so that sharing with VA can take place at a greater and more effective rate?

**Answer:** DoD uses AHLTA and VA uses VistA for documentation of health care delivery. The Services do not have their own electronic health record systems although they do have some Service specific systems. Using the VLER/National Health Information Network (NHIN) model, data in existing systems may need to be translated into the standard approved by the NHIN for sharing those specific data elements using the NHIN approved document types.

**Question 4:** How has the Interagency Program Office involved the Veterans Benefit Administration in its mission development and how will the IPO be involved in informing the VA/DoD single exam process?

**Answer:** The IPO has not been involved in this process. The concept of a single cooperative examination process has been in existence since 1994 when the Army agreed to participate in a test with VA to determine if one separation physical examination could satisfy the needs of both VA and the Army. VA and DoD signed national single examination memoranda of agreements in 1998 and 2004. The agreements encouraged local memoranda of understandings (MOU) and since that time, almost 100 MOUs have been signed between VA and military services that cover 133 installations through the Benefits Delivery at Discharge program.

**Question 5:** At the hearing, the Subcommittee asked about the millions of pieces of lost and unassociated medical documents that DoD eventually sends to VA, but because this is not done in a timely fashion, 13 percent or 40,000 veterans were wrongly denied benefits. Will the IPO be evaluating plans to address these unassociated files and how they might be scanned and added to electronic records?

**Answer:** Under the auspice of the Joint Executive Council and the Benefits Executive Council, the Medical Records Working Group (MRWG) has been working this issue. The working group consists of representatives from VA and DoD (including representatives from each military Service). Most recently a Memorandum of Agreement (MOA) was drafted and is out to the Services for final coordination and a Service Treatment Record (STR) Scanning Solution Focus Group (SSFG) has been formed to address this issue. The MOA addresses handling and processes associated with making electronic and paper Medical and Dental Service Treatment Records (STRs) available to the VA. The STR SSFG will determine the best methods to scan paper records and index in a way to create a single comprehensive STR that can be made accessible to the VA.

The IPO does not currently conduct management oversight of these working groups or their plans. section 1635 of the NDAA FY 2008 requires the IPO to provide oversight of the implementation of electronic health record systems or capabilities that allow for full interoperability of personal health care information between DoD and VA. Document scanning is not an electronic health record system, but a method of information input, and therefore does not fall under the purview of the IPO.