

CLAIMS PROCESSING AT THE VETERANS BENEFITS ADMINISTRATION, UPDATE ON PROCESSING OF PERSIAN GULF WAR CLAIMS, AND EFFECT OF PUBLIC LAW 103-446, THE VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

HEARING
BEFORE THE
SUBCOMMITTEE ON
COMPENSATION, PENSION, INSURANCE AND
MEMORIAL AFFAIRS
OF THE
COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES
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FRIDAY, MAY 12, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION, PENSION, INSURANCE
AND MEMORIAL AFFAIRS,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to call, at 9:30 a.m., in room 334, Cannon House Office Building, Hon. Terry Everett (chairman of the subcommittee) presiding.

Present: Representatives Everett, Weller, Hayworth, Barr, Ney, Evans, Montgomery, and Kennedy.

OPENING STATEMENT OF CHAIRMAN EVERETT

Mr. EVERETT. Good morning. The subcommittee will now come to order.

Today, we are here to review VA's performance in their area of compensation pension benefits in general, with some additional emphasis on what is being done for the Persian Gulf veterans. We will also look at the appropriate sections of Public Law 103-446, which made several improvements to veterans' benefits delivery.

I would like to welcome all the witnesses who are here to testify today. Without objection, their entire statements will be made a part of the record. I would also ask that they be as brief as possible so that we may use the majority of the time to ask questions of the panels.

The issues of timeliness and quality continue to plague the claims process. There is no doubt—and we all agree—that justice delayed is justice denied. Initial claims that take a half year, and appeals that take several years are not the way to run a railroad; and I know—I am from a railroad family.

There is also no doubt that VA has made strides in decreasing the backlog and the average time to process claims. The question is how VBA has accomplished those improvements: Have they done it through reduced intake and heavy use of overtime or some other method?

We are concerned that we identify the bottlenecks that affect timeliness. For instance, GAO stated that queue time awaiting processing accounted for 94 of 151 days needed to process a claim in 1992. I view queue time as the prime indicator of the long delays in getting a final decision. Therefore, VA's objective must be to dramatically reduce or eliminate queue time. The only way to do that is to reduce the average of 6.5 work hours it now takes to produce a final decision.

I hope to hear some concrete ideas from today's witnesses on how to do that.

Let me further state, if you can reduce the work time per claim, it offers us the opportunity to shift some resources to customer services, another area needing management attention. Such a move would benefit the VA in terms of better customer service because of fewer blocked calls, shorter waits for service and an improved image in the eyes of veterans. Any good businessman knows that a key component of a successful business is maintaining a high level of quality and service when a customer first walks through the door.

I am also concerned about maintaining quality consistency in VA's decision-making process. Veterans currently appeal about 60,000 cases; out of last year's 3.2 million claims, that is a rate of about 2 percent. Obviously, that is not necessarily an indicator of system-wide sloppy work on a massive scale. However, I understand somewhere between a third to a half of those appeals end in at least some change to the original decision, whether granted by the Court, the Board of Appeals or the regional office. Those are a lot of veterans now getting their lawful benefits who would have otherwise been denied.

I am concerned when I see court decisions like *Gardner v. Brown* and *Davenport v. Brown* that determine that VA regulation does not conform to law and merely reflect the way VA has been doing business. It makes me wonder how many other inconsistencies are lurking out there and what VA proposes to do about them.

The dilemma confronting us regarding the Persian Gulf veterans is this: As the people's elected representatives, we have fiduciary responsibilities to the American taxpayer and a moral obligation to fulfill the Nation's commitment to the veterans who served those same taxpayers. To that end, I share the concerns of the members of this committee who have long supported getting to the bottom of the Persian Gulf syndrome. We must ensure that those legitimately injured in service are taken care of. But the flip side of the issue is that we cannot give away the taxpayer's hard-earned money on the basis of wishful thinking.

P.L. 103-446 made improvements in compensating Gulf War veterans, but there are still many questions surrounding the problems facing those who served in the Gulf. And while that is not the focus of today's hearing, we will revisit the issue. But for today, let us focus on how well VA is doing under the present law.

Now I would like to recognize the distinguished Ranking Member of this subcommittee, a long-time advocate of veterans, but before I do that, I would like to congratulate him on being awarded the Legislator-of-the-Year Silver Helmet by AMVETS in recognition of his long service on behalf of the veterans.

Mr. Evans.

OPENING STATEMENT OF HON. LANE EVANS

Mr. EVANS. Thank you, Mr. Chairman, I appreciate that, and I am pleased that the first hearing you are having is going to focus on the VA's claims adjudication system. This is an issue I have some great interest in. As the former Chairman of the Oversight and Investigations Subcommittee, I heard for many years—in the last 8 years, about the problems facing the VBA.

We have learned from those hearings and suggested changes to improve the timeliness and quality of VBA's adjudication system. Last year, we passed the Veterans' Benefits Improvement Act of 1994, which changed the requirements for proof of relationships and acceptance of income verification. In Public Law 103-271, we revised the income verification requirements in the needs-based pension program.

Realizing these changes were not enough, we also authorized the establishment of a Veterans' Claim Adjudication Commission. The Commission is an expert panel charged with reviewing how the VA processes benefit claims and proposes ways to improve the process.

VBA must get to the point where claims are decided quickly and correctly the first time. I do not want to hear complaints in the future from widows whose spouses died before their claims were adjudicated or veterans whose claims were rejected because the VA failed in its duty to assist by not fully developing their cases.

One of the witnesses today, who I understand has not arrived yet, is Mr. Montgomery Watson, Director of the Illinois regional office. He is a Vietnam veteran with a distinguished record. He has risen from an entry level position as a claims examiner in San Francisco in 1972, and I understand he will be appearing here shortly.

It is our responsibility, however, to ensure that the professionals that are doing the job have the resources they need to make sure they can do their jobs the best that they can. We must fight to protect VA's funding and make certain that VBA's funding request is honored.

Funding for VBA and BVA comes under the category of discretionary spending, which means it is subject to the whims of the Budget and the Appropriations Committees.

Last month the House passed legislation to reduce the amount available to the Appropriations Committee by over \$100 billion over the next 5 years. Spending for discretionary programs would decline from \$546 billion in 1992 to \$522 billion in the year 2000. The size of the decrease is obviously greater if inflation is taken into account.

Under the budget proposals Chairman Kasich passed earlier this week, support for VA's programs and services would decrease by several hundred million dollars next year because the Chairman wants to freeze funding at this year's level, minus the amount appropriated for major construction, and continues to reduce funding relative to the baseline in the out-years. These will be veterans' programs that will be affected. When compared, CBO's projected baseline discretionary funding for veterans' programs would decrease by almost \$5.7 billion a year by the year 2002.

Mr. Chairman, I hope we can reverse this trend and that this Congress will give the veterans the respect that they deserve. I also hope Mr. Vogel will listen carefully to the testimony presented today and take some of the suggestions to heart. All the witnesses here are stakeholders in the quest to make VA's quality second to none.

Again, I salute you for holding this important hearing and look forward to working with you on this particular issue.

[The prepared statement of Congressman Evans appears on p. 37.]

Mr. EVERETT. Thank you very much, Mr. Evans.
My good friend from Arizona, a fellow sportswriter.

OPENING STATEMENT OF HON. J.D. HAYWORTH

Mr. HAYWORTH. I thank the Chairman very much. We could sit here and speculate on the changes in our respective positions from journalism now to public office, but I think it is overwhelmingly overshadowed by the accomplishments and the service of this Nation's veterans. And I look across the table to see my good friend from Illinois and my friend from Mississippi, and a few other newcomers in the Congress joining me here, the gentleman from Georgia and Illinois, and Mr. Chairman, I salute you today.

I listened with great interest to the comments of the Ranking Minority Member, and I know that even from time to time, while there may be philosophical questions that come up, I think we all know in this committee the example set by the Ranking Member of the full committee, the gentleman from Mississippi, who from time to time has taken pains to point out that, especially on this committee, we do not view things as Democrats, Republicans or Independents, we view things from the American standpoint; and I welcome that wisdom and counsel.

Yes, there will be changes at every level of government. The challenge for us is to find the best way to utilize resources, realizing that not always is there equation with money spent and funds allocated to the effectiveness of services. That is why I welcome the hearings today as we move to make the programs as effective as possible, even while we face fiscal realities.

I thank the Chairman for the opportunity to give this opening statement.

Mr. EVERETT. Thank you.

And now this subcommittee is honored to have as one of its members the Ranking Member of the full committee and also a long-time advocate for veterans, Mr. Montgomery.

OPENING STATEMENT OF HON. G.V. (SONNY) MONTGOMERY

Mr. MONTGOMERY. Thank you very much, Mr. Chairman. Congratulations on starting on time. Next time I will be on time myself. I think it is very, very important in this Congress that we start the subcommittee meetings on time.

And I thank Mr. Hayworth for his comments. J.D., it is bipartisan, and the bottom line is to do what we can for veterans and their dependents and widows, and that is what we try to do. I am sure on this side of the aisle that we are working in every way we possibly can to do the best we can for veterans.

I am sure there will be some changes. Funding might be some problems we will have to look into for veterans. I did read a report several days ago—maybe Mr. Vogel can explain a little more; I think we are doing a better job on processing of claims. I certainly hope so. That has really been something that has been of great concern to me, that it takes this long to process a claim. I hope we have worked out some of these problems.

And thank you for giving me this opportunity, Mr. Chairman.

Mr. EVERETT. Thank you, Mr. Montgomery.

Mr. Weller.

OPENING STATEMENT OF HON. JERRY WELLER

Mr. WELLER. Well, thank you, Mr. Chairman; and, of course, I want to commend you for conducting today's hearing and speaking in the spirit of bipartisanship that has been shared.

For the first time, certainly in my memory as an adult, this Congress has made a commitment to live within its means; and I believe there is a real desire in a bipartisan fashion for the Congress to live within its means for the first time in 28 years. That means we have to look for ways of doing a better job. That is why I think today's hearing is so important.

As a State legislator for the 6 years prior to having the privilege of serving in the Congress, I, of course, performed a lot of constituent services for a lot of my constituents, and that included veterans. One of the greatest frustrations I heard from veterans was the delay and the long time it took to process claims, to find out if a veteran was eligible for veterans' benefits.

When it takes up to 6 months for veterans to find out if he is eligible, or for his widow or dependent to find out if they are eligible, that is far too long. We need to find a better way. I also learned if they are turned down it can take another 18 or 24 months to resolve the issue. So I am looking for ideas.

I am anxious to work in a bipartisan fashion, Mr. Chairman, and I want to commend you for conducting today's hearing.

I want to also acknowledge Mr. Watson. He is from my home State. It is good to have a friend here from Illinois.

So thank you, Mr. Chairman.

Mr. EVERETT. Thank you. Mr. Barr.

OPENING STATEMENT OF HON. BOB BARR

Mr. BARR. Thank you, Mr. Chairman. As I travel back home at every opportunity and meet with citizens and voters, many of whom are veterans in the Seventh District, and from all across the State of Georgia, the claims processing problems that we have been witnessing, that we know exist, are something that I hear about a great deal. So I think it is very timely and very important, certainly to the veterans in Georgia in the Seventh District and really all across this great land, to begin to try to get a handle on that. And the way we do that is to hear from the experts, the folks that know what the problems are and can tell us how to solve them, so we can take that baton and handle it legislatively, through both legislation as well as oversight.

I look forward to being a part of that process, Mr. Chairman.

Mr. EVERETT. Thank you very much. Mr. Ney, you are up already. Would you like to make an opening statement?

Mr. NEY. Just that it is a pleasure to be here, and I appreciate the hearing on a most important issue. Thank you.

Mr. EVERETT. Thank you very much.

Our first panel is composed of the directors of several VA regional offices. The panel consists of Mr. Jim Maye—Mr. Maye, please come on up to the table; Mr. Montgomery Watson from Chicago—Mr. Watson, with a name like Montgomery you can pretty much call your own shots around here; Mr. Donald Ramsey from St. Louis, MO; and Mr. Joe Williams from Portland, OR.

Gentlemen, welcome, you are an important part of this hearing. We have not asked you for prepared testimony. What we want to hear from you are your candid views on your operations in particular and system-wide in general. I am sure we can count on that.

STATEMENTS OF JIM MAYE, VARO 314, ROANOKE, VA; JOE THOMPSON, VARO 306, NEW YORK, NY; MONTGOMERY WATSON, VARO 328, CHICAGO, IL; DONALD RAMSEY, VARO 331, ST. LOUIS, MO; AND JOE WILLIAMS, VARO 348, PORTLAND, OR

Mr. EVERETT. The first question I would like to pose to you, and to all of you, is, what model has VARO adapted to process claims? What is the timetable for completion of this reorganization?

Mr. Maye, we will start with you, please.

Mr. MAYE. Good morning, sir. The Under Secretary has given us a great deal of latitude in the models we select and how we go about adapting the change to process claims. The model that the Roanoke regional office is using is similar to the model established by Joe Thompson in the New York regional office.

We began on the 9th of January, with our first team in adjudication, and we expect to have that completed by January of 1996; with all of adjudication converted to full teams.

Conversion of teams in our loan guarantee operations began about 8 months ago. We have successfully converted about 25 percent of that operation into teams. There will be some other conversions in our other elements, including vocational relocation as well as veterans' services.

Mr. EVERETT. And you have a forecast of your time of completion for this reorganization?

Mr. MAYE. The physical plant changes should be completed this fall with people in place by January of 1996. The process of going to fully self-directed work teams will probably take several years, as people learn to take on new responsibilities and we provide them with additional authority to act.

Mr. EVERETT. Mr. Watson.

Mr. WATSON. Mr. Chairman, it is my pleasure to be here and to see representatives from the State of Illinois.

Regarding your question, we in Chicago also have moved to teams, and in our adjudication division, which is the lead division that is currently in progress. It involves a tremendous amount of training, and that is currently under way.

The other thing that we have done is to set out the clear expectation that the timeliness issues must be met. So all of the employees in the Chicago regional office are aware of that and are on board.

Because we have not been able to hire any new employees, due to our FTE ceiling, what we have done is to move folks from our loan guaranty divisions and so forth to help in the adjudication division in fairly specific areas. We also currently have under way a plan to consolidate our finance, human resources, and administrative divisions into a support services division, and that plan is out of the office this week and once approved should be start being implemented within about 30 days.

Mr. EVERETT. Thank you very much. Mr. Ramsey.

Mr. RAMSEY. The St. Louis regional office, unlike the other regional offices is a regional processing office for the Montgomery GI bill, and we have just completed the consolidation of our RPO area into St. Louis, and that has a lot of bearing on how we go on organizationally and on teams.

We are setting up teams in our veterans services division to handle the public contact and to handle our inquiries from other States on education. We hope that with the procurement of stage 2 imaging equipment, that we can then better organize around the technology that would be available to us.

The Chapter 30 Montgomery GI bill, education benefits currently are being handled on an imaging system that is totally outdated, but we are able to, with that system, control the education process; and we take enrollment information electronically from an education institution and convert that to our data system without printing any paper and can make the awards without any paper whatsoever.

If the stage 2 procurement goes through, as we hope it will, that will then have a lot to do with the way we organize the regional processing office in St. Louis. The technology will have a lot of bearing on that. We now are having only one hand off, from the educational institution to an award of benefits for education. And we would hope that some day we could do the same thing for compensation and pension.

But currently our workloads are under control. We are meeting or exceeding the goals for fiscal year 1995, and we are below the goals set for 1998 for all C&P end products, except three, and we believe those will be below that in the near future.

Mr. EVERETT. Mr. Williams.

Mr. WILLIAMS. Mr. Chairman, members of the subcommittee, it is a pleasure to be here this morning. Thank you for inviting me.

The Portland regional office instituted its first team about 2½ years ago. Joe Thompson in our New York office kind of arrived at the same model through a different route, so we both have been in this business a little bit longer than some of the other people.

We completely reorganized in that we merged the adjudication and veterans services divisions last month. Our veterans claims representatives, as we now call them, deal with the full range of duties both of the former adjudicators and the former VBCs. We have reorganized our Administrative and Human Resources divisions so they are now one division. In that process, we have eliminated one division chief.

At every step of the way, especially with adjudication and veterans services, we have made the decision to continue on with the self-directed work teams based on demonstrated improvement. Over the past 2½ years we have seen substantial improvement in terms of timeliness, production and quality.

Thank you.

Mr. EVERETT. Thank you. Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman. It is a pleasure and honor to be here today.

As Joe mentioned, about 3 years ago, we looked at what we were doing in the regional office, took a hard look at our claims process. We saw about a 25-step process that could involve as many as a dozen employees, three different divisions in the regional office, seven separate chains of command. And probably the most frustrating thing for veterans was that they could not talk to the people handling their claims. We actually had a separate organization for that.

We held focus groups with veterans. We did surveys. We asked them how we could do a better job for them. And while they all stressed the fact we were too slow and that time was important to them, even more important to them was the fact that they often were reduced to a number when dealing with the VA. They felt we did not know much about them when they called. They never spoke to the same person twice, and had to reexplain themselves many times.

We looked at the process for a year, and studied what we would do. We studied—actually used private sector organizations as models: AT&T, IBM, Metropolitan Life. After a year of study, we changed the organization. We reduced from six divisions down to three. We reduced those seven chains of command down to a single chain of command, a self-managed team. Twenty-five steps were reduced down to eight. We had 47 supervisors when we began; reduced that to 28 and expect the number to continue to decline significantly.

And probably, most importantly, the veteran has one place he or she can go to and speak to someone who is knowledgeable about him or her as an individual. The only analogy I can draw to what we have seen done is trying to rebuild your house while you are still living in it. The plaster dust swirling around sometimes makes you question the effort. But last August we completed the transition to the 16 self-managing teams.

We are learning and growing every day. There have been some mistakes, some setbacks, but it has been wonderfully positive for our employees and, I think, for the veterans that deal with them as well.

Mr. EVERETT. I have one last question for each of you.

How many hours of processing time per claim do you spend in your organization?

Mr. MAYE. Hours of processing time per claim?

Mr. EVERETT. Yes, Mr. Maye, we will begin with you.

Mr. MAYE. The 110s, initial claims, currently run about 122 days from the time we receive the claim until we have made a final decision. Actual hours of processing probably range from 8 to 10 hours per claim. There is a lot of time where we are in search of docu-

ments, service medical records, additional evidence to support the individual's claim.

Mr. EVERETT. Trying to gather all the material in one spot?

Mr. MAYE. Yes, sir, we spend a great deal of time in search of information and waiting for information to arrive.

Mr. EVERETT. Mr. Watson.

Mr. WATSON. Mr. Chairman, I would have a similar answer. It really depends on the type of claim, whether or not it is an original compensation claim, or whether or not it is reopened or some other claim.

We are, though, tracking all of them for timeliness, and I have and can furnish you specific data on each individual claim.

Mr. EVERETT. Thank you. Mr. Ramsey.

Mr. RAMSEY. Currently, we are running about 106 days on our original compensation claims. As Mr. Maye stated, it varies. The timeliness that the veteran responds or the time it takes us to get a hospital exam completed or obtain information from a private physician varies from case to case. But in house, we probably do not do more than 8 hours on one claim. That would be max.

Mr. EVERETT. Mr. Williams.

Mr. WILLIAMS. Mr. Chairman, I believe our answers are similar to our colleagues. It takes about 6 to 8 hours actual in-house processing time. As a result of our going to self-directed teams, to give you an idea of what they are capable of, from October of 1994 through March of 1995, we have reduced the processing time for original compensation claims to 140 days from 275 days. We expect further improvement.

As a matter of fact, as a result of the unique configuration in the Portland office, we are now undergoing time motion studies, to see exactly how much in-house time it does take us to process claims. Both Joe Thompson and myself are somewhat unique in that we have two divisions blended together.

Mr. EVERETT. Thank you. Mr. Thompson.

Mr. THOMPSON. Mr. Chairman, I don't know how many hours are spent handling the claim. My guess would be, as mentioned, in the range of 6 hours in the regional office. The processing times vary, depending on how long the team has been in operation. Our most mature teams are in the low 100s. Our newest teams are probably around 200 days-plus today. We have found that as the teams mature, they get faster and better at what they are doing.

Mr. EVERETT. Thank you very much. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. Watson, before you arrived, I was also singing your praises. We appreciate, as I know Congressman Weller does, the work you and your staff do.

Today, Mr. Chairman, we are really dealing with some of the best regional offices in the country, so we appreciate your all coming across the continent to join us here today.

Are you encouraged to develop and try new initiatives which might improve the processing of veterans' claims? And how do regional offices share information concerning successful initiatives? Could you answer briefly?

Mr. MAYE. Yes, we do. We are encouraged to experiment and to share information. As we started the development of teams, one of

the first things we did was send people to New York, to Portland, to Muskogee, and to Jackson, MS to look at their operations.

We spent, as the others did, about a year in examining what they were doing, learning from them, before we began actual implementation.

Mr. EVANS. Mr. Watson.

Mr. WATSON. Likewise, we have sent folks from the Chicago regional offices to the other offices that have been down the road that we are going on. In Chicago, we are following the directions that were given by the Under Secretary for benefits listing specific issues that we within VBA must accomplish.

Within the central area, which is where I am, we have developed a very detailed plan to go after all of those initiatives, and I have mirrored that within the Chicago regional office. Basically, what I have told people within the office is that if I, as a Director, do not achieve the results that we are charged to accomplish, that I should not expect to remain in the Chicago regional office.

So it is really a no compromise kind of situation. We have our goals and we must meet them and we will.

Mr. EVANS. Mr. Ramsey.

Mr. RAMSEY. We, in St. Louis, are still working at reorganization. We have been studying it. The technology we hope will come on line in the near future, will have a lot to do with the outcome of the organization at St. Louis, because of our involvement with the education program.

Mr. EVANS. Mr. Williams.

Mr. WILLIAMS. Congressman Evans, the Portland regional office has had a great deal of latitude in trying a number of things, some of which now have been implemented nationwide. The C&P Service granted us authority to experiment with single-signature award authority some time ago. We provided data to them which they used as a basis to export this to the rest of the offices in the country.

We were allowed to engage in a project which we call "Conditional Approvals." That is when a claimant calls in, and maybe has a dependent or has income changes. Our people are able to modify the award over the telephone, having the claimant submit hard copy data within the next 30 days. We tested this for about a year and during that time period we experienced no overpayments.

I feel that we have had a great deal of latitude, and C&P Service and Veterans Assistance Service have been very supportive in our efforts to consolidate the two divisions into one division.

So as far as sharing data, we have hosted many visitors, including some from New York. We visited New York and other offices. As a matter of fact, we are hosting the Western Area Directors' Conference in about 2 weeks, the primary theme of which is to take a look at team concepts to see how we are doing. This will allow the rest of the directors in the Western Area to get a sense of reality of what it takes to go into self-directed work teams. We have had a great deal of Central Office support.

Mr. THOMPSON. Congressman Evans, we have been given wide latitude in implementing change in New York. A couple of years ago we were selected to be a reinvention lab under the National

Performance Review. We were also selected to be a pilot site for the Government Performance and Results Act.

As such, when we first began this process and we met with both the Compensation and Pension Service, and the Veterans Assistance Service, they basically told us we could do what we wanted to do as long as we did not break the law in the process; that they would set the manual aside and allow us to experiment.

I am proud to say that, as a result of that redesign, we were the recipient of the first Hammer Award given out by the Vice President last year, and we have also made great strides in redesigning the system's measures on how we evaluate performance in the regional office. We have incorporated measures that include customer satisfaction, cost for producing work, and measures of employee development. Our next major venture is to look at how we compensate employees, to make that consistent with delivering high-quality performance to veterans.

Mr. EVANS. All right.

Mr. Chairman, I will probably submit some other questions for the record for these witnesses.

Thank you all very much for testifying today.

(See p. 87.)

Mr. EVERETT. Mr. Weller.

Mr. WELLER. Well, thank you, Mr. Chairman.

As a new Member of the committee, I will probably be asking some pretty basic questions, and I will probably direct mine particularly to Mr. Watson and Mr. Ramsey, who, of course, serve in the Illinois area.

You have indicated in your testimony that the Central Office has given you quite a bit of latitude in your ability to come up with better ways and quicker ways of processing claims.

I was wondering if you can share with me how you have been developing them, reviewing what has been done in the past, and what procedures that have been followed? Who do you consult with, who do you talk with? Is it an internal group or do you seek outside ideas and help?

Mr. WATSON. In 1990, I was with VBA, and then left for a period of about 4 years, then went to VHA and then came back in 1994 as Director of the Chicago regional office. One of the first things I did was have a transitional meeting involving all the key staff so we could look at the issues that affected the Chicago regional office. From that we developed a series of issues then that we started to track. We have continued that process.

I meet regularly with all employees. Matter of fact, I just recently had several all-employee meetings, and the reason for that is to communicate to them directly on the issues that we face.

So in answer to your question, sir, what we do is to use all of the tools that are available to get ideas, to get people involved, and to make sure that everyone understands where we are going and why we must get there.

Mr. WELLER. Does that include conversations and interviewing recipients, veterans themselves; asking for their ideas in how the processing can be improved?

Mr. WATSON. Yes, sir, it does. Within Veterans Services Division, we have started a survey of veterans who come in and we ask them

about the service we provide. Our Vocational Rehabilitation Division recently conducted focus group surveys to see how veterans view the service and what they would like to see changed.

Mr. WELLER. What about outside organizations? For example, I know 2 or 3 years ago, when I refinanced my home, I was able to get a decision within a matter of days or even less by going to my local bank and going through the processing of the application that they have.

I was wondering, have you looked to the private sector for ideas on how you can improve and expedite the processing of claims?

Mr. WATSON. Well, absolutely. If you look at our Loan Guaranty Division, the practices that they currently employ really are geared to mirror the practices within the mortgage banking community. Now, for example, we currently have under way a test to look at how we service loans, and the issue there is to see whether or not, if we were to service from a central location, that would be better in terms of how veterans are helped.

So in answer to your question, yes, we are very aware of private practices and, yes, we want, to the extent that we can and should, mirror those practices.

Mr. WELLER. Speaking of veterans' housing, what is the average turnaround time in an application today for a veteran coming in seeking assistance through the Housing program?

Mr. WATSON. Those veterans who walk in and want Certificate of Eligibility, if we have the information readily available, are serviced on the spot. They are able to walk away with the information that they want.

Mr. WELLER. Same-day service?

Mr. WATSON. Yes, sir.

Mr. WELLER. Thank you.

Okay, Mr. Chairman, that is all.

Thank you.

Mr. EVERETT. Thank you. Mr. Montgomery.

Mr. MONTGOMERY. Thank you also, Mr. Chairman.

I would like to welcome this panel. I know some of you. Mr. Maye was in Mississippi for several years, and I welcome the other members of the panel.

Mr. Ramsey mentioned about the education benefits, the Montgomery GI Bill that are processed in St. Louis. I guess I worry about if you need better equipment to do the job of processing these educational benefits, it would really make it easy on members here, because when these young men and women do not get their checks, they get in touch with us, and I do not get that many complaints, so I want to commend you. It must be working pretty well.

I do want to be careful that you do not take people out of that Educational Department and put them in other areas, Compensation and Pension, to speed that up. I guess that is a balancing act that needs to be done.

Have you had to shift any people out of Education into the Compensation and Pension Offices?

Mr. RAMSEY. No, sir, we have not, in St. Louis. As a matter of fact, we have probably added more to Education than to any other function. Our Adjudication Division now is over 200 employees, mainly because of the increase in Education.

We do not intend to shift resources from Education to C&P. We will use some of our C&P resources and other resources to assist us this fall with the fall enrollment. The equipment is the big question.

We have an imaging system that was initially bought to run a test for 2 to 3 years, and it was to be reviewed. It has been. It is a success, and we have been trying for 3 years to buy the replacement equipment for this outdated imaging system.

We have had oversights from, I think, everyone in the world to question the authority and need for the equipment that is desperately needed for the Chapter 30 part of the Montgomery GI Bill.

Mr. MONTGOMERY. Is the money there?

Mr. RAMSEY. Yes, sir, it has been there for 3 years.

Mr. MONTGOMERY. What is the problem, again?

Mr. RAMSEY. Well, we have the General Services Administration, Congressional oversight committees, and we have our own supply people, and our own attorneys who seem to be more concerned about delaying than in expediting the purchase of this equipment so that we can get veterans paid timely.

Mr. MONTGOMERY. Mr. Chairman, this bill belongs—and Lane Evans also, the GI Bill, he was coauthor and made the motion that gave it its name, and I appreciate it—but certainly if the money is there, we ought to be able to move it along and to process quicker.

I have introduced a bill, H.R. 1611, that would improve the quality of housing for our active forces. Now, this idea is not original with me. Mr. Vogel saw in the paper where the military was getting ready to spend several billion dollars of building housing on our bases for better quality of life for our military that Secretary Perry is pushing. He made the suggestion, and we followed up on it.

And we have a chance. The bill went to the Armed Services Committee. The Defense Department, for the first 3 years, would pick up part of the interest rates when an active-duty service person at Fort Benning, GA, that is an E-4, could buy a piece of property, a home off the base, and the Defense Department, the first 3 years, would pick up part of that interest. We think it has a lot of merit to it.

The reason why I am telling you, it would probably come under some of your areas of work. It would save the taxpayers a lot of money if you did not have to build all this housing on bases and you could get a young service person, married, with a family, in a home. And when that individual was shifted off to Korea, to Europe, he could keep his family in the home that he would own, financed by the Veterans Department. He could rent it or he or she could even sell it, I assume.

But that bill is introduced. I think it will come out of the House Armed Services Committee, and it will help alleviate some of the problems on housing on these bases.

So I just wanted to let you know, as well as you, Mr. Chairman, and other members of the committee, that that is another option for young military persons to own their homes, and it would go through the Veterans Department, who would finance them. And Mr. Vogel gave us that idea and I wanted to pass it on.

Mr. EVERETT. Thank you very much, Mr. Montgomery.

Mr. BARR.

Mr. BARR. Thank you, Mr. Chairman.

In response to one of the questions that the Chairman posed about the number of days that it takes on claims, there is almost a 40 percent difference in some of the offices, ranging from 140 days to just over 100 days. We have represented here very much a cross-section of the country, stretching from coast to coast.

Do you all have any ideas you could share with us as to why there is such a difference in the time that it takes?

Mr. THOMPSON. I would suggest—

Mr. BARR. There may be some ideas here.

Mr. THOMPSON. The number of original compensation claims are relatively low in comparison with the total amount of work they do. So the numbers could move fairly dramatically in a short period of time.

It is contingent on a few things: How many folks you have that are trained in doing disability evaluation—what we call rating specialists. If you are just short a little bit, it could have a dramatic impact on that. Also, your success with gathering information, particularly service medical records can dramatically change.

Some of these claims can take well over a year in an attempt to secure records, as mentioned. The amount of time in handling the claim is just a few hours in the regional office. Most of the time is spent gathering evidence. Most of the difficulty that we have is in gathering evidence.

I would suggest that the variances, at least in New York, depend on the amount of experience of the people handling it; sometimes the difficulty of the claims themselves.

Mr. BARR. Would any of the rest of the gentlemen like to respond to that? It seems like there is a tremendous difference in the amount of time that we are talking about from one area of the country to the other.

Mr. WATSON. One of the things we are doing within the central area is to look at workload within the various regional offices. At our last meeting we discussed setting a ceiling, where if that number is hit, we would automatically look at transferring cases within the area to get the work done.

And again, as Mr. Thompson was saying, there are various reasons within the regional offices why the caseload is the way that it is. It depends on the level of employees and also the level of training.

Mr. BARR. I am not at all trying to be critical. Because I know you are all operating under some tremendous monetary constraints and a lot of the bureaucracy and getting lawyers involved, and so forth, but is the Department itself engaged in any sort of study to see why we have such discrepancies?

Mr. MAYE. Yes, sir. Probably a question better answered by Mr. Vogel; but several years ago the Central Office started a very concentrated effort working with DOD to make it easier and quicker to access service medical records. That is one of the primary problems we face, gathering service medical records to support the individual's claims.

I do know that that effort is still ongoing, and it is anticipated that the process should improve.

Mr. BARR. So you are saying there may be a problem in getting the information through DOD?

Mr. MAYE. Yes, sir. It has been an historically difficult situation for us to obtain service medical records.

We have practiced a number of other options. When I was in California, working with a couple of the other regional offices, we started what is now known as the TAP and the DTAP programs. We were asking that individuals who were coming for these out-briefings to bring copies of their medical records, and with the assistance of veterans' organizations who were also there, we were making copies of their medical records so they would have duplicates. Then when they filed actions, they would come with the necessary evidence. And in those cases, the processing time was greatly reduced.

Mr. RAMSEY. Starting in 1992, the VA established the Service Medical Records Center in St. Louis, and the Army, at that point, began shipping service medical records to St. Louis. Those are available to be shipped immediately after a veteran goes into a regional office and files a claim. The records are shipped within a couple of days to that regional office.

In fact, prior to that, it would be 6 to 8 months from the time the serviceman was separated, before his records were available at the Army Reserve components command for us to access. That is gradually going to help in our obtaining service medical records on subsequent claims. All branches of service now are sending their service medical records to the records center in St. Louis.

Mr. BARR. Is there anything specifically or explicitly that we can do here in helping that process? Is there additional funding; is there some restructuring somewhere along the line?

Mr. WATSON. In the military we had two missions, one was to get the job done, whatever that was and the second was to take care of your troops. I am pleased to see DOD involved with VA to have exams that are ready for rating done prior to the person being separated.

I think that, plus the service medical records issue Mr. Ramsey talked about, will greatly speed our ability to take care of those original compensation claims.

Mr. BARR. I know the red light is on, Mr. Chairman, but if any of you all have additional material that can help me or certainly help the committee, I would appreciate receiving it in writing.

Thank you, Mr. Chairman.

Mr. EVERETT. Certainly. Mr. Kennedy.

Mr. KENNEDY. Thank you, very much, Mr. Chairman.

I appreciate the hearing you are having this morning.

I was just talking to Mr. Montgomery about the nature of the claims, the former Chairman was saying that in years passed, these claims have taken up to a year or more to process.

I was just wondering if you could give us just a kind of a description of what kinds of claims would come in? When I see, as I understand, you know, there are literally hundreds of thousands of these claims that come in.

Can you give us a little description of the types of claims that you are seeing made at this point, that you are having to make decisions on?

Mr. WILLIAMS. Well, one thing that has happened over the past few years is that, as a result of military downsizing and the success of TAP, DTAP, some of the decisions by the Court of Veterans Appeals, and due process, the cases are becoming more complex in terms of the number of issues initially that have to be decided and the amount of discussion or verbiage in the individual rating decisions and adjudication decisions.

For example, 20 years ago, a rating specialist—

Mr. KENNEDY. Can you pull the mike a little closer?

Mr. WILLIAMS. Is that better?

Mr. KENNEDY. Even closer would be better. Just pull it right up. It won't bite.

Mr. WILLIAMS. How is that?

Mr. KENNEDY. Thank you.

Mr. WILLIAMS. A good rating specialist could rate about 25 cases a day. Now, some of our best rating specialists, can rate between 15 and 16 a day, primarily because of the amount of discussion and verbiage and the amount of information that has to be transmitted to the claimant. I am not saying that is bad, it just takes more resources.

Mr. KENNEDY. Is there any difference in terms of the kinds of injuries, the income levels of the people that are applying? Is there any sort of demographic—sort of description of differences that might take place between what is in existence today versus 10 or 20 years ago?

Mr. WILLIAMS. Twenty years ago, our office was dealing primarily with combat-related injuries, and today we are seeing, at least in our office, fewer combat-related injuries, but we are also seeing more service—or at least more claims for service connection in terms of the numbers and types of injuries. The income limits and the decisions regarding income are pretty much the same. We have ceilings that above which qualification for pension is denied and below which the person is qualified.

Mr. KENNEDY. Let me just ask this; I am trying to talk and reason in plain English here about whether or not you are seeing people that are coming in with nonservice-connected disabilities; that might have a back injury or an injury that they might feel was related to some kind of injury that they might have sustained in Vietnam or Korea, or something like that, many, many years ago, that has not acted up in a long time. Are these poor veterans that are coming in with these kinds of claims? I am trying to understand what is going on out there.

Mr. WILLIAMS. We certainly see those kinds of claims.

Mr. KENNEDY. But is that the average? I am trying to find out what you are dealing with.

Mr. WILLIAMS. The average claim? The average initial claim now in our office is from a veteran getting out of the service as a result of downsizing, with anywhere from 8 to 10 years of service. Veterans are coming out looking for a new career and wanting to have service connection established for injuries that occurred while they were in service.

We see indigent or low-income veterans coming in for pension. Some from World War II but more and more from Vietnam.

We see some of the World War II and Korea folks coming back in for reevaluation of their service-connected disabilities. Some are initial service connection; where as you said, they feel they have had injuries or diseases that occurred while they were in service.

We are continuing to get PTSD and Agent Orange claims, and, most recently, we are getting Persian Gulf claims. I don't think the mix—

Mr. KENNEDY. Are you suggesting that because of all of these—the length of—you talked about verbosity of something. Is there just a greater amount of sophistication because people are getting some kind of legal representation; is that what you are suggesting?

Mr. WILLIAMS. I think the veterans are more sophisticated and more demanding, as they should be. I think they are better informed than when I got out of the service. I think the programs we have instituted, TAP/DTAP, are doing an excellent job. The claimants are much more aware of what their benefits are and that they ought to apply for benefits.

Mr. KENNEDY. Do any of the rest of you have any comments you want to make about the characteristic of the claims?

Mr. MAYE. I think Mr. Williams pretty much covered it. For people leaving the military now, the initial claims are much more complex. Basically, we used to see two, three, four issues in a claim. Now, I think the average is seven and eight issues, and once in a great while you will see as many as 100 issues where a claimant may be requesting a review. Those are large and complex claims and take quite a while to process.

For the pension claims, the economy has a tremendous impact on what you see. In some States, it is less of an issue than in others. But any State that is going through economic difficulty, you will automatically see increases in applicants for pension. In States that have no other economic support system for their citizens, the number of applicants even higher.

Mr. KENNEDY. Well, I guess, you know, I would point to the—it would be interesting to see whether or not we were fulfilling the needs more clearly when the process might have been a little simpler than once we have had sort of the more—it sounds to me as though we are doing more work per claimant than has occurred in the past.

I wonder whether or not we could not look to the Department to see whether or not there are some suggestions you might have towards reducing not only your paperwork and the difficulties that veterans are having and maybe try to streamline this process a little bit?

If you have some ideas along those lines, I would be very interested in hearing them.

If the chairman wouldn't mind just an additional—

Mr. EVERETT. Please proceed.

Mr. KENNEDY (continuing). 30 seconds here.

I am concerned about the fact that, as I understand, out of 1,900 cases, and with regard to Persian Gulf, only 97 veterans have actually been processed. It just indicates to me that there are some

problems here in terms of how these claims are going through the system.

I would be very interested in hearing from you, if you have some specific notions, as to how—in some of these cases, I would suggest there may be a way to cut down on your paperwork, process claims a heck of a lot faster and more cleanly, and probably look after veterans' true needs in a more efficient and effective manner; would you agree with that?

Mr. WILLIAMS. Yes, I would agree with it. I think the Department is taking some steps. Most recently, we have been informed that we have the option of requesting certified copies or photocopies of marital and dependency documentation.

I think this will help us put less of a burden on the claimant, and we can process claims faster. We will not have to send out letters back and forth to the claimant requesting essentially the same documentation over and over again.

Mr. KENNEDY. Thank you very much.

Thank you, Mr. Chairman.

Mr. EVERETT. Gentleman from Ohio.

Mr. NEY. Thank you, Mr. Chairman.

I want to ask a question about the 48 or 49 percent of the cases that were sent back, were remanded back, by the BVA, as a result of erroneous decisions. More badly prepared cases.

I again would echo what my colleague, Mr. Barr, said. This is difficult in the amount of cases that come in. But in three different sheets of testimony, it just says that about 49 percent were remanded back due to erroneous decisions or incomplete work.

Do you want to comment on that?

Mr. WATSON. Regarding the cases that we sent to the Board of Veterans' Appeals, I had the good fortune, when I was in Indiana, to take a course with Mr. Demming, and he talked about quality issues, and so forth. I think, and this is my very personal opinion, that we should have been able to see when judicial review was passed, the impact that it would have had on claims processing.

And by that I mean that before that there was no body above DVA who looked at cases in a very strict legal kind of way. And that review, I think, has changed the way that VBA looks at cases and has also impacted the way that we in the regional offices must prepare those cases.

Mr. NEY. So, in other words, it has driven backwards in a sense; you had very little ability to anticipate would be expected until it got to that point?

Mr. WATSON. Yes, sir.

Mr. NEY. Did that make sense, what I said?

Mr. WATSON. I think that is the case. Because the decisions by the Court of Veterans Appeal does set precedent and we then in the field must react to that.

Additionally, what has happened is that in reacting to that, we—and it goes to one of the questions that was asked earlier, I think by Mr. Kennedy—we now, in the field, must prepare cases that are much more legalistic. We must go out and get all of the evidence before we can make a decision.

Mr. NEY. Mr. Chairman, that would bring me to another question.

Once you know how the system has changed and how you have to now prepare, and in possibly a different way, how do you bring that back and make that transcend across all the offices? In other words, to tell the people preparing these cases this is what you now have to do differently? Has that part of the process been implemented?

Mr. THOMPSON. Mr. Congressman, the VA headquarters holds monthly conference calls with all the regional offices, and we assemble all of the people involved in the disability evaluations as well as veteran service organization members in a room. Right now our biggest problem is getting a room large enough to hold all the folks for the conference calls.

To show you how it is, not that it has just changed, but it continues to change, we had a rating specialist leave 6 months ago and come back to the regional office. She said her knowledge had become dated in that 6 months hiatus significantly, that things had moved that much, so it continues to evolve and getting the information out is a critical issue for VA, and it continues to be, and I would imagine it will continue to be for some time.

Mr. NEY. The other question I had just centers around—I think Mr. Montgomery mentioned automation. How satisfied are you that with the way we use this system and the information we collect; are we up on the information highway?

Mr. THOMPSON. We are on the information dirt road right now I think. Our system is relatively old, the main system for processing claims, the target system. We are undergoing a modernization effort that will take some time.

VA began in the computer business in 1959 and has built on that for a number of years. It probably would be easier to build a new one than what we really have to do, which is to change that whole old system, millions of lines of code at the same time paying claims to veterans and not letting any of that slip. So we are in the middle of that modernization effort now in the regional offices. We have started to see pieces of it coming into place. Our stage I equipment, giving us local area networks and PCs, is just the beginning of that process.

Mr. NEY. Because, and don't worry, we just got on line January the 4th for the first time in the history of Congress, the Internet, so we have been on a dirt road, too, and still are in a certain sense. I assume it would help the backlog greatly; the ability to correct if this came up to super automation.

Mr. THOMPSON. Absolutely.

Mr. NEY. Is there any time frame on that? Has anybody told you when that can be done?

Mr. THOMPSON. Well, I think probably the entire system is a number of years down the road, the conversion, but I think significant pieces of it will be delivered in the next few years, enough to make a difference in the regional office to make it easier to do the job, expert systems and better letters packages and things just to help us gather evidence and information. We have started to see that already, and I think we will continue to do that.

Mr. NEY. In looking through some of the testimonies I did note a comment that someone made that we may be advancing too fast, that we are having difficulty dealing with automation. That is

probably true, we are having difficulty, but I believe very strongly that we have got to move rapidly ahead. It may be painful and we will make mistakes, but if we do not, the people who are going to suffer most are going to be the veterans, and I think we have just got to press on.

Mr. EVERETT. Thank you. I want to thank this panel for appearing here today and traveling to visit with us and sharing your thoughts with us. Thank you very much.

Mr. EVERETT. I now call the next panel composed of representatives of several service organizations. The panel is composed of Mr. Brian Campbell, Vietnam Veterans of America; Mr. Bob Manhan, Veterans of Foreign Wars; and Mr. Rick Surratt of the Disabled American Veterans.

Good morning. To allow time for your questions, I would appreciate it if you could limit your opening statements to three or four specific suggestions on how to improve VBA operations. Your full statement will be placed in the record, of course. Gentlemen, you will please proceed. We will start with you, Mr. Campbell.

STATEMENTS OF BRIAN CAMPBELL, CHAIR, VETERANS ADVOCACY COMMITTEE, VIETNAM VETERANS OF AMERICA; BOB MANHAN, ASSISTANT DIRECTOR, LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS; RICK SURRATT, ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

STATEMENT OF BRIAN CAMPBELL

Mr. CAMPBELL. Good morning, Mr. Chairman, members of the subcommittee. Vietnam Veterans of America appreciates the opportunity to discuss VA's processing of compensation claims in general and Gulf War claims in particular. The numbers are at least moving in the right direction. It is not very quickly. This is due in large part to three factors. One, heavy use of overtime has allowed BVA staff to grind away at the caseload, but at a personal cost that cannot be maintained long enough to solve the problem; two, the recommendations of the BVA Select Panel on Productivity Improvement which have been implemented to date have enabled the board to work a bit more effectively; three, the complementary recommendations of the Blue Ribbon Panel on Claims Processing are also being implemented and VVA expects them to help with the source of the backlog, the beleaguered ROs.

We are glad to see the subcommittee monitor the effectiveness of compensation benefits for Persian Gulf War veterans. It is still early for a thorough evaluation, though it is clear that VA's outreach efforts are succeeding. Some Gulf War veterans with mysterious health problems face the legendary catch-22. They applied for compensation, were turned down because they had undiagnosed ailments. Now these veterans, still disabled by these same health problems, have received diagnosis for chronic fatigue syndrome or some other equally hard to document condition.

Upon refiling their claims, they are turned down again because their ailments are no longer undiagnosed illnesses that became manifest during or after the Gulf War and no absolute proof exists even now as to what caused the problems.

In my work as a benefits representative, I have had only 2 of 15 Gulf War syndrome cases where benefits were granted. The clear intent of Congress was to provide compensation for these veterans, disabled by something that has a strong statistical association with service in the Gulf War. Congress worked long and hard with representatives of VSOs to craft a bill that would allow these veterans to receive the same kind of financial help that any disabled veteran is entitled to receive. It was also VA Secretary Brown's clear intent to provide that aid. We need to know why VA is having a problem with this. The problem, whatever it is, must be corrected immediately if VBA's credibility is to escape damage.

The Veterans Benefits Improvements Act of 1994 made several improvements in the process of claims with adjudication. Title II was intended to stop the flow of experienced board members leaving for social security administrative law judge positions by restoring historical pay equity and eliminating arbitrary term limits for reappointment without any clear standard. Since the enactment of this law, we understand that no board members have left the board to become ALJs.

VVA maintains its support for Title II. Reports from VVA service representatives in the field have been extremely positive regarding the VA's acceptance of uncertified documents. This helps to speed up the claims development time, especially for claimants not represented by a service representative or an organization.

VBA is not up to speed, however, in the new mandate allowing medical exams by private physicians without the need for duplicate examinations by VA physicians. The idea behind this position was to reduce the caseload for VA doctors, while allowing veterans to use private physicians familiar with their medical records. A usable report from a private physician is not a note that says Johnny isn't feeling well, please give him some money. It must spell out in the same kind of detail required of a VA doctor the symptoms, the diagnosis, and the extent of the disability. VA ratings specialists must accept such reports as valid when they meet the test of completeness or this provision was enacted for nothing.

So far we see little sign of such acceptance. Where the government's doctor and a private physician disagree, the report of the private physician must not be discounted. It is a second medical opinion which would be valid standing alone if it were uncontroverted. The ratings specialist must not be permitted to seize upon a report of an overworked government doctor to deny or minimize a valid claim from a veteran disabled in the service of its Nation.

The expedited remands or prescreening of claims authorized by Public Law 103-446 show great promise. We believe that the VA is making important improvements in its benefits services to the whole range of men and women who are today disabled for their service to their country. There is clearly a great deal more to be done. VVA applauds the progress that has been made and stands ready to assist in any way possible with finding solutions to the remaining problems.

Mr. Chairman, this concludes our testimony.

[The prepared statement of Mr. Campbell appears on p. 40.]

Mr. EVERETT. Thank you very much.

Please proceed, Mr. Manhan.

STATEMENT OF BOB MANHAN

Mr. MANHAN. Thank you, Mr. Chairman. It is my pleasure to represent the Veterans of Foreign Wars this morning.

First off, we recognize that VBA is big business. They take care of approximately 2,200,000 customers or veterans every year, and they disperse about \$18.2 billion. We would like to think that is done in a timely and equitable manner. We have heard a lot about timeliness. We notice that almost a year ago it took about 7 months for the VBA to process a case. At the end of March this year, less than 60 days ago, it has dropped down to 5 months, and Secretary of the Veterans' Affairs, Mr. Jesse Brown, testified 2 weeks ago before the Senate Veterans' Affairs Committee that his goal is to bring original claim time down to 3 months by 1998. VFW certainly recognizes that this is a trend in the right direction.

On the other hand, we have the issue of quality. Mr. Ney has already touched on the fact that the trend on remanded or returned cases to VBA is going up. Last year, fiscal year 1994, it is a matter of record, 48 percent of all cases were returned for various reasons. The first six months of this fiscal year, 49 percent has been returned. That does represent a problem area.

You have asked us to comment on a couple of portions of Public Law 103-446, the long title being "Veterans' Benefits Improvement Act of 1994." Title I is the Persian Gulf veterans portion. We agree with everything that has been said. VFW is on record when that was a bill to support ensuring the Persian Gulf veterans got expedited treatment and that they would be compensated for injuries or illnesses that were not yet medically documented.

The other thing about allowing veterans to provide written documentation for marital status speeds up administration, and we were very satisfied with that, along with, as my colleague has already stated, to allow veterans to bring in a decent piece of medical documentation from a private physician discussing his illnesses or disabilities and as far as I know VBA is accepting that.

Title III deals with adjudication improvements. There was nothing that I could add today after listening to the panel that preceded me. You had five expert directors of various regional offices tell you what they are doing. VFW is satisfied that about a year from now there will be reports submitted to this committee on all the improvements that they have in fact made.

The last title is IV, and it deals with the Veterans' Claims Adjudication Commission. Again, that body will owe you a report next year. In the VFW's considered opinion, that is the key to the entire claims processing problem because that commission will address the Board of Veterans' Appeals and the Court of Veterans Appeals. These two agencies are the other two sides of the entire triangle that makes up the claims adjudication process system.

In closing, I would like you to consider four actions that the VFW would like to have in the way of expanding or improving upon compensation claims for the entire veteran population. The first is to ensure that the Internal Revenue Service does not include the compensation monies that veterans get as part of the veteran's gross

income. We know that Mr. Montgomery has already introduced bill H.R. 972 to preclude that from happening.

The second action that we would like you to consider is to repeal the 1-year limitation on payments of accrued benefits that a veteran would have received had he not died while his claim was being processed. That is significant, and right now that would require a change to section 5121 of Title 38.

Our third improvement would be to correct the inequity that presently exists in the requirement that military retirement pay be reduced by an equal amount to any disability compensation that the military retiree may receive. Congressman Bilirakis of this committee has introduced two bills to address this long-standing problem. One is H.R. 65, the other one is H.R. 303. Bill 65 is addressed to the House National Security Committee, and Bill 303 is addressed to the House Veterans' Affairs Committee.

Last would be your consideration to remove the 3-year time limitation for amending Federal income tax returns when a veteran finally receives his disability compensation that in time goes back more than 3 years. Again, Congressman Montgomery has introduced bill H.R. 973 as early as February 16 of this year to recognize and correct this problem.

Mr. Chairman, this concludes the overview of our statement today. Thank you.

[The prepared statement of Mr. Manhan appears on p. 45.]

Mr. EVERETT. Thank you.

Mr. Surratt.

STATEMENT OF RICK SURRATT

Mr. SURRATT. Good morning, Mr. Chairman, and members of the subcommittee. You have the DAV's written statement, and in the interest of time I am not going to summarize it here, I would just say that the DAV is concerned about the quality of decisions on compensation claims. We believe the VA needs to focus more on this area.

As we and others have said before, VA should strive to get it right the first time. Timeliness and quality are not mutually exclusive. Indeed, they are interdependent. In our written remarks we have cited some troubling statistics which demonstrate an unacceptable error rate in regional office decisions. I believe, as my colleague mentioned here, that is running about 50 percent on the remands and fairly high on the reversals also.

We are also concerned about the extremely low allowance rate of claims for service connection of undiagnosed illnesses of Persian Gulf veterans. Last year Congress, VA, and the veterans community gave this issue top priority because of the urgent need to get these veterans compensated, yet VA has only allowed a little over a hundred of these cases. One reason for a large portion of the denials is the 2-year limitation on when the disability must be manifested. We urge that this be removed, and we urge that VA compensation and pension service take all necessary steps to ensure that these cases are being properly decided, taking into account the difficult nature of the issue that they are presented with there.

That is all I have. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Surratt appears on p. 48.]

Mr. EVERETT. Thank you very much.

I have a question for each of you, if you don't mind answering it. The VSOs have put a lot of effort into assisting veterans with their claims. Do you know how much each of your organizations spend or devote to paying for service officers who assist veterans with their claims?

Mr. CAMPBELL. Our program, Mr. Chairman, is just starting to get off the ground for Vietnam Veterans of America, but our budgetary process right now for just the VSO program is a little over a half million dollars.

Mr. MANHAN. Mr. Chairman, I have no figures for you from the VFW, but I will have the answer, and I will send it over immediately.

Mr. EVERETT. Thank you.

(See p. 133.)

Mr. SURRETT. Mr. Chairman, I don't have the exact numbers. Of course, the DAV is a service organization, that is our primary goal. We have service officers in nearly all the regional offices, I believe. We commit a great deal of resources to that effort. My guess is somewhere in the neighborhood of \$40 or \$50 million a year for providing services to veterans.

Mr. EVERETT. Should VA make more space available for your service officers at the Benefit Training Academy?

Mr. SURRETT. More space available for what, Mr. Chairman?

Mr. EVERETT. More space available at the Benefit Training Academy in Baltimore?

Mr. SURRETT. The Benefit Training Academy.

Mr. EVERETT. In Baltimore.

Mr. SURRETT. I am not sure we are having any problems in that area. Again, I would be happy to submit a supplemental statement for the record.

Mr. MANHAN. Mr. Chairman, the VFW also is unaware of having any problems with that, but I will provide an answer from the people who do our claims work.

Mr. CAMPBELL. Mr. Chairman, VVA has sent people to the training there, and I think it is an excellent idea. Our organization feels that it is good training for our people who are out in the field to learn from the Veterans' Administration or from the Department of Veterans Affairs, excuse me.

Mr. EVERETT. Thank you. That is all of my questions. Mr. Barr?

Mr. BARR. Thank you, Mr. Chairman.

As you all were testifying I was reviewing the written material, and I appreciate you all submitting that. I found the legislative recommendations particularly informative, and I have just written some notes for our legislative staff to see how we can assist in several of those that I think are very, very important.

The one thing, and you all have already covered this and we are going to go back and study this, is just the tremendous number of errors that seem to be prevalent, and it seems to be increasing. That is a real concern to me. We heard from the previous panel, some of their reasons why in response to some questions that my colleague from Ohio, Mr. Ney, mentioned, but that is something that really is a concern to me. As we are trying to streamline gov-

ernment and make it more efficient, it is going to present some real problems if we keep seeing this sort of trend continue. So this is very valuable material, and I appreciate you all bringing some specific information to our attention because I intend to look into that, and I know this subcommittee will. Thank you.

Thank you, Mr. Chairman.

Mr. EVERETT. Thank you. I will recognize Mr. Ryan for a question.

Mr. RYAN. Gentlemen, I don't know if you have had a chance yet to analyze the budget resolutions that have been reported in both Houses. Our analysis suggests that funding for the Department of Veterans Affairs, for its discretionary programs, will be either a freeze at the 1995 level or some decrement from that. That is through the year 2002. There will not be any additional funding for the Veterans Benefits Administration. There won't be funding for pay raises. It is my understanding there just won't be any additional funding.

Could you just talk for a minute about what impact you think that would have on timeliness and quality in VBA decision making?

Mr. MANHAN. Thank you, Mr. Ryan. I will speak for the VFW. I think it will have an extremely adverse impact on VBA. In fact, I don't understand how they will be able to do their job. Right now the compensation, the money that is disbursed is mandatory, as you and I know, that is mandatory spending, but the monies for VBA's employees are discretionary, and the VFW has long been on record to have the employment money for VBA also be mandated because if you do not provide the people to perform the job, you are doing almost nothing twice. In summary, the VFW is very concerned about that, and we would like to think that this committee, along with the help of all the veterans service organizations, would try to ensure that any reduction in either mandatory or discretionary monies does not happen.

Mr. Surratt. For the DAV, I would say probably the effect of that is obvious. The VA is struggling with the resources that it has now. It is using those resources effectively; we don't see much fat there. This just appears to be a recipe for disaster. That would be 7 years on the Senate budget that they would go without any increased funding. You have cost-of-living raises for employees, you have need to upgrade your physical plants, just all kinds of things coming into play here that would be frozen, and I don't see how that budget is compatible with the VA's mission.

Mr. CAMPBELL. On behalf of VVA, I would like to say that our organization would be against any attempt to try to freeze any type of salaries or monies. The salaries would affect the morale of the agency, which the trickle down effect would affect the veterans who are applying and the wives and children and widows. That would not be fair.

Under Secretary Kizer and Under Secretary Vogel have come up with new and good ideas which are going to help, considering years past, and I think if we strap the FTEEs, especially with the rating specialists and adjudication and under VHA's side, I think what will happen there is again veterans are really going to suffer.

Mr. RYAN. Thank you, Mr. Chairman.

Mr. EVERETT. As you heard the bell go off, we have got a situation where we are going to have a vote in probably about 10 minutes. It may be followed by a 5-minute vote, but before we leave, Mr. Surratt, let me ask you, considering that all the claims decisions appealed to the Board of Veterans' Appeals represent only about 1 percent of the total claims processed by VA, can the remand and reversal rate by the Board of Veterans' Appeals be deemed representative of the quality of VA claims adjudication overall?

Mr. SURRETT. I don't believe we can confidently say that the error rate in those decisions not appealed is necessarily the same as the error rate in the decisions reviewed by the Board of Veterans' Appeals. On the other hand, neither can we conveniently assume that the cases not appealed are error free as a way to trivialize this large error rate we see at the Board of Veterans' Appeals.

VA's laws and regulations are fairly complex. I don't believe many veterans understand or are familiar with these laws and regulations, and in my experience not many veterans familiarize themselves with the evidence in their case. What that means is that they really don't have much of an idea of the legal merits of their claim. They may have a feeling that they are entitled to more or something like that. So, just like some veterans appeal when they shouldn't, I think we can assume that some veterans don't appeal when they should, and the bottom line is, again, while it may not, the error rate in those appeal cases, may not correlate exactly, I think what we see at the board is certainly representative of a larger problem.

Mr. EVERETT. Thank you. Let me ask this quick question for all of you. Do your organizations agree with the VA's goal of 106 days for completion of a claim?

Mr. MANHAN. VFW notes that it is moving in the right direction, and we remember several years in the past, Mr. Chairman, we thought 120 days was reasonable or good. In summary, yes, provided that once that decision is made, it is a good decision.

We are concerned right now that perhaps in order to meet timeliness in some areas the VBA is cranking out slipshod work—that is a strong word—not a completely developed case is better, and therefore what good does it do to process a case in 102 days or 98 days if it is going to come back later on because it was not completely documented and a wrong decision was made? The only way you know it was a wrong decision, is if it is subsequently approved at the Board of Veterans' Appeals. The challenge is to balance timeliness with quality of initial decisions made.

Mr. EVERETT. Any other comments?

Mr. SURRETT. I believe in a survey, customer service survey the VA did, veterans thought that 7 to 9 weeks was an adequate time in which, the ideal time, to respond, but I agree with the VFW that certainly we have to make sure that there is adequate time to get quality first, because if you don't do that, these cases just keep going through the process over and over again, and the effect of that is to overload the system, to delay the decision in that one claim and all other claims as well.

Mr. CAMPBELL. Vietnam Veterans of America also agrees that the VA is on the right track; we may not necessarily agree with the 106 days. Again, you want quality, not quantity.

Mr. EVERETT. Thank you, gentlemen. I appreciate your testimony. It is always, as you know, good to hear from you.

Mr. EVERETT. Our next panel is also composed of veterans service organizations, Mr. Phil Wilkerson, representing The American Legion; Mr. Larry Rhea, Non Commissioned Officers Association; and Mr. Russell Mank, from the Paralyzed Veterans of America.

Gentlemen, I would ask you to proceed in the same manner as the last. I will break and let you relax at this point. Hopefully, I will be back in the next 10 or 15 minutes and we will hear your testimony.

[Brief Recess.]

Mr. EVERETT. Ladies and gentlemen, I will point out that the House is now operating under the 5-minute rule. I hope we are not interrupted quite as often but there is a possibility that we might be, and I will ask the panel to proceed.

Mr. Mank, we will start with you, if you don't mind.

STATEMENTS OF RUSSELL MANK, NATIONAL LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; LARRY RHEA, DEPUTY LEGISLATIVE DIRECTOR, NON COMMISSIONED OFFICERS ASSOCIATION; PHIL WILKERSON, DEPUTY LEGISLATIVE DIRECTOR, THE AMERICAN LEGION

STATEMENT OF RUSSELL MANK

Mr. MANK. Mr. Chairman, on behalf of the Paralyzed Veterans of America, I appreciate the opportunity to testify this morning.

On May 24, 1993, six veterans' service organizations submitted a 10-page paper to this subcommittee, very explicitly suggesting ways that we could move forward in decreasing the numbers of days that it would take to process an original claim. I think we made some progress, but that was 2 years ago, and many of the suggestions that we made at that point are still relevant today.

PVA would like to commend Secretary Brown and the Veterans' Benefit Administration for their work in decreasing the average time that it takes to process an original claim from 213 days to 166, which is the number of days that the Secretary indicated to Senator Mikulski 2 weeks ago that it was still taking. I did not hear that number morning. Everybody on panel one said their average was 166 days, so other VAROs are taking several hundred days to process claims.

What is a proper number? We don't know what a proper number is, but 166 days are excessive.

PVA is playing a role with Mr. S.W. Melidosian, the Chairman of the Veterans' Claims Adjudication Commission, that Public Law 103-446 addresses, and I would like to read a couple of paragraphs from the letter we submitted to that commission.

In our view—we are talking about the claims processing—we said the VARO adjudication process is fundamentally flawed. An adequate, written explanation and justification for denial of a claim are not required until after the claim has been denied, and a notice of disagreement filed by the claimant. Such a process facilitates de-

cisions that are based on incomplete information or poorly developed cases, especially in a system driven by end products.

Also, extrapolating from what a leader of our organization sent to the commission and said, "Two further facts compound this fundamental problem with the VARO. First, initial case development is done by those with the least training and experience. Second, there is no reward for doing case development work properly, and no accountability for doing case development work improperly. Accordingly, we feel the focus on the commission's efforts should be on changing and improving the initial adjudication process employed by the VAROs. The process needs to reward getting it done correctly the first time and penalizing it when one gets it wrong. VA cannot continue to do business the way it always has."

Mr. Chairman, I am not sure whether we will be here 5 years from now talking about this same topic, but I think it needs to be changed, and it needs to be done rapidly.

Thank you for giving us the opportunity to speak with you.

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

Mr. EVERETT. Mr. Mank, I couldn't agree with you more. I have been here 3 years, and we are talking about basically the same problem.

Mr. Rhea.

STATEMENT OF LARRY RHEA

Mr. RHEA. Thank you very much, Mr. Chairman, and good morning again to you. The Non Commissioned Officers Association is indeed pleased to be here, and we thank you for your invitation soliciting our thoughts on VA claims processing. Since this particular issue ranks second, ranks a very close second behind health care in importance to our members, we consider it not only important to discuss this subject but also very timely to do so.

As my friend and cohort Mr. Mank just mentioned, approximately a year ago several of us, including several of the members that were here earlier, were talking about this very same issue. At that time a year or so ago in several hearings even the most optimistic outlook did not give veterans cause to celebrate, and you know the problem that we were talking about at that time. So we are here again today to discuss the issue, and I don't believe anyone would suggest that we are where we should be today by any reasonable standard of accuracy and timeliness in claims processing, but our association believes, Mr. Chairman, that a measure of honesty and fairness is also required on behalf of Secretary Brown and Mr. Vogel.

Their critics have been in no short supply over the last couple of years, and NCOA was among those critics, so in honesty and fairness, we consider it important to dispense credit where credit is due, and therefore wish to publicly state the association's appreciation to these two gentlemen for their efforts over these past several months.

As you are aware, while we may not agree that a backlog of some 450,000 to 470,000 claims is satisfactory, it is a marked improvement from the 575,000 or so that we were sitting here talking about just a year ago. The average response times, although probably not acceptable to what we would like to see, we note that they

are down. But honesty and fairness also require, Mr. Chairman, that we have to remember that the dilemma that we have today didn't occur overnight and it is probably not going to be solved in a day's time or in a year's time. The fact that progress is being made is, in NCOA's view, testimony to the resolute determined efforts by both Secretary Brown and Mr. Vogel.

That having been said, there are two central points that we would like to make in our testimony today, and that we believe will require the continued attention of the subcommittee. The first, Mr. Chairman, is an absolutely critical issue, and that is the subject of sufficient full-time employees. The 1995 full-time employee level of 13,220 for the VBA was decreased for 1996 by 188 positions.

The 1995 appropriations specifically addressed the staffing needs of VBA to help resolve the backlog of the claims in VA regional offices, and it is NCOA's hope this morning that that demonstration last year was not a one-time gesture. We believe that if the subcommittee, and indeed the full committee, is seriously committed to solving the claims problem that is confronting VA and veterans, that the action taken last year concerning the full-time employee level must necessarily extend for several years. We would request that you would seriously look at that again this year because precisely at a time when we are seeing progress, although small, we believe that the reduction of 188 positions has the potential to snatch defeat from the jaws of potential victory.

We would urge you to consider, Mr. Chairman, the recommendation on the employee level that was made in the independent budget for Veterans' Affairs, of which NCOA is an endorser, and, in short, that recommendation says that VA should realistically assess its employment levels based on reasonable timeliness standards and Congress should authorize the required staffing levels. The second area, and I will be brief in saying that, the entire future in NCOA's estimation is going to hinge upon VA's ability to modernize their technology. We could discuss whether the approach they are taking is the proper approach, and I am not smart enough to tell you, Mr. Chairman, whether that is or not, but I have enough common sense as an old noncom and an old master chief to tell you that is the direction they are going to have to go. We would urge the subcommittee to devote some attention to that, because in our opinion we believe that the future viability of the entire system hinges on VA's ability to modernize their technology in a correct fashion.

In closing, we are encouraged by the progress they have made. We look forward to seeing more positive results as the recommendations of the Blue Ribbon Panel are further implemented, and also, as the Veterans' Claims Commission pursues and finishes its work, we are hopeful that we will get some more positive recommendations out of that.

We thank you, Mr. Chairman.

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

Mr. EVERETT. Thank you. Mr. Wilkerson.

STATEMENT OF PHIL WILKERSON

Mr. WILKERSON. Thank you, Mr. Chairman. We wish to commend you for holding this timely hearing to examine the status and

effect of various changes under way in the regional offices. VBA has made considerable progress over the last several years, and we are encouraged. However, there is still a long way to go towards improving the level of service that is provided to our Nation's veterans, particularly in comparison to where we stood just a few short years ago.

There are a number of factors which directly affect the work load at the 58 VA regional offices and constrain VBA's ability to improve the level of service provided. Current staffing of the CP&E service currently stands at 4,558. No increase has been requested for fiscal year 1996. Benefit information provided to discharged veterans through the TAP and DTAP programs is resulting in more claims being filed. In general, claims are becoming more medically and legally complex and thus require more time to adjudicate. Cases remanded by the Board of Veterans' Appeals will require further development and adjudication by the regional offices. As of the second quarter of fiscal year 1995, the board has remanded some 7,000 cases, and that number is projected to further rise as BVA increases its level of production. According to the last report on the implementation of the VA's Blue Ribbon Panel recommendations, that indicated that progress was continuing, and these changes have been accompanied by new computer hardware and software under stage I of VA's long-term computer modernization program.

Mr. Chairman, from a recent article in publication called Government Computer News, it appears that the General Services Administration has some concerns with regard to VBA's timetable for stage 2 computer modernization in view of an apparent lack of improvement in claims processing associated with stage I initiatives.

There was a GSA-sponsored study that concluded VA is trying to accommodate a rate of change that its operational management infrastructure cannot handle effectively. It indicated that VBA has acknowledged it is reexamining its stage 2 projects.

Because of the importance of the modernization program and the need to ensure its success, we would like to see, at this point in time, that VBA perhaps undertake a full assessment of stage I and compare the performance with expected goals in order that any needed changes or corrections be made before committing to the full scale purchase of equipment and technology under stage 2.

With respect to Persian Gulf claims, Public Law 103-446 has only been in effect for about 6 months, and in our opinion it may be too soon to make any definitive judgments concerning the efficacy of this legislation. It was apparent that the prior law and regulations in effect were not adequately addressing the issue of unexplained illnesses being reported by so many Persian Gulf veterans. The result was Public Law 103-446 which provides compensation to be paid to Persian Gulf veterans for undiagnosed illnesses.

We are especially concerned by the fact that out of the total of 1,905 Persian Gulf claims recently completed, service connection has been granted in only 97 cases. We have found that while many of these claims were in fact considered under the new law, they had been filed under the criteria previously in effect. These veterans have not had an opportunity to more adequately prepare their claim based on the current criteria. We believe this is unfair. We recommend that veterans whose claims were received by VA prior

to the enactment of Public Law 103-446 be contacted and advised what additional evidence should be submitted. We also recommend that the original date of claim be maintained in these cases to ensure that Persian Gulf veterans' claims are properly developed and adjudicated in a manner consistent with the letter and the intent of this legislation.

That concludes our statement, Mr. Chairman.

[The prepared statement of Mr. Wilkerson appears on p. 65.]

Mr. EVERETT. Thank you very much for your testimony. Appreciate you being with us today.

Mr. Vogel. We now have the pleasure of hearing from the Honorable John Vogel, the Under Secretary for Veterans' Benefits. Mr. Vogel comes here as a long time VA employee, former chief benefits director, former regional office director, and former VA medical center director.

John, I don't know if we welcome you from exile or into exile, but it is probably one or the other. We have heard a lot today, and I want to thank you very much for listening. I am going to ask you also to introduce your associates that you have brought with you, and we will be glad to hear your statement.

STATEMENT OF HON. R. JOHN VOGEL, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS ACCOMPANIED BY RAYMOND AVENT, DEPUTY UNDER SECRETARY FOR BENEFITS AND GARY HICKMAN, DIRECTOR, COMPENSATION AND PENSION SERVICE

Mr. VOGEL. Thank you, Mr. Chairman. With me on my left is Mr. Raymond Avent, the Deputy Under Secretary for Benefits and to my right, Mr. Gary Hickman, the Director of the Compensation and Pension Service.

Mr. EVERETT. Thank you very much for being here, and of course we will enter your full statement into the record.

Mr. VOGEL. Thank you, Mr. Chairman. I am pleased to be with you to discuss the processing of compensation claims by the Veterans Benefits Administration.

In February 1994, I testified it was taking 215 days to work an original compensation claim. We were estimating that it would take 226 days by the end of fiscal 1994. The pending work load was 536,000 cases, and we were anticipating it would be 710,000 by the end of fiscal 1994.

Today, we are seeing significant improvements in these areas. By the end of April the work load was 438,000 claims. We believe it will be around 400,000 by the end of the year. Original compensation claims now take about 165 days to work. We believe we will be down to 106 days or so by the end of fiscal 1998. We attribute the improvements to the combined effect of several different initiatives. Regional offices were able to share resources by helping those offices each other with heavy rating backlogs.

By the end of calendar 1995, we will have consolidated education claims processing into four regional offices. VA's Service Medical Records Center in St. Louis now stores and distributes service medical records of recent discharges. We have updated the physician's guide and made it available in a computerized version. We may now accept some examinations performed by clinical psychologists

and nurse practitioners. We may now accept private physicians' statements for rating all types of claims.

We have increased the number of rating specialists nationwide from 530 in September of 1992 to 775 in December of 1994. Many offices, as you have heard, have created rating technicians and rating analysts to help review and develop claims. We have installed word processing programs that make rating decisions easier to prepare. We have authorized preparation of single signature ratings and undertaken a full revision of the ratings schedule. We are distributing development checklists to ensure that all evidence is requested as early as possible.

We published a rule eliminating the requirement for certified copies of dependency documents and are preparing a rule to allow the acceptance of a claimant's signed statement of dependency.

We are now using overtime to process C&P claims. Our centralized training programs provide a standardized and consistent interpretation of laws, regulations, and procedures. We will feel the influence of other initiatives in the near future.

Under authority granted by recent legislation, we will reduce eligibility verification report processing by 65 percent. In 1993 and 1994, we installed stage I computer hardware at all regional offices as the foundation for future modernization efforts. We have installed new computer software packages to improve our correspondence and allow easy access to VA laws, regulations, and directives. Reengineering initiatives are being tested throughout the system.

I would now like to discuss briefly section 106 of Public Law 103-446 which authorizes compensation for Persian Gulf veterans with undiagnosed illnesses. We published a regulation to implement section 106 in February, and issued instructions for adjudicating claims immediately thereafter.

We centralized these claims to four regional offices. They are currently reviewing previously denied environmental hazards claims. As of the first week of May they had reviewed 2,059 cases and granted compensation to 108 veterans. We have denied 299 claims because the illness didn't meet eligibility criteria under Public Law 103-446. There were also 1,652 claims disallowed because the record showed no evidence of a disability.

Although the number we have granted is small, we are still in the early stages of the review. We can expect more grants in the future. Nonetheless, the compensation and pension service is reviewing certain disallowances. When that review is complete, we will address all areas where improvement may be needed.

Mr. Chairman, that concludes my summary statement. Mr. Avent, Mr. Hickman, and I will be happy to answer any questions you or the members of the subcommittee may have.

[The prepared statement of Mr. Vogel appears on p. 70.]

Mr. EVERETT. Thank you very much.

Mr. Secretary, how are you going to judge the results of the regional offices reorganization? How are you going to measure that, the effectiveness?

Mr. VOGEL. Excellent question. One of the basic admonitions, and virtually the only one I put out, was that in going through a reengineering and changing of the way they do business, they must know where they are today by getting a fix on the number of re-

sources they now have employed in processing claims. And when they install variations on the current system, to do so in a planned way so that they will know, as they are moving down the road, whether they are achieving their goals.

We measure things comparatively well. We measure the amount of resources per claim. We measure corporate resource utilization. And we can measure the satisfaction of the veterans, at least through focus groups and similar media. Customer satisfaction is a significant measurement. But timeliness and quality must also be measured. We have the mechanisms in place to make assessments as we go.

We are prepared, too, to try things, to fail, to learn from failure, and to get up and try something differently. We think that gives the regional offices latitude to be creative so that Central Office does not wind up providing heavy-duty prescriptions about how they should conduct their business. What we want is results.

Mr. EVERETT. As you analyze this, have you gotten any surprises or discovered some things you didn't know?

Mr. VOGEL. One of the things we learned fairly early on was, as Mr. Thompson was describing the number of steps in the process. The number was around 30. We talked to our employees and talked to others about redundant steps and we learned that if you ask people how to add value to a process, or how to change a process, they can tell you. It may be the file clerk, it may be the person who does the development work on a claim or anybody else throughout the system.

So, one of the things we have learned is to listen to the employees that do the work.

Mr. Hickman may want to add something to that.

Mr. HICKMAN. Mr. Chairman, I would say a couple of things. Certainly we have learned that you must convince the employees to buy in to what you are going to change. Essentially, you must talk with them and give them a basic understanding of what you would like. You certainly have to give them some training in how to work as a team—personal dynamics. Each office is having to go through that process.

As the Directors mentioned, you will have to look at where you are at a given time and start measuring from that point in order to determine whether improvements are occurring or not.

Mr. EVERETT. We all know where we have to go and we all want to get there. As a result of analyzing this, have you rechanged any thinking on any particular issues or the way we are doing certain things?

Mr. VOGEL. Probably our greatest accomplishment has been the introduction of technological applications to allow our people to do the substantive work necessary rather than the hand work necessary.

As we go through this, the learning curve becomes smaller and smaller. Technology is the answer. Mr. Rhea from the Noncommissioned Officers Association said it well: That is a great deal of the answer. Reasonably, we do not expect additional human resources. If we get them, you would hear a cheer from me, but we do not expect to see them. We do, however, want to work smarter, and we are on the road to accomplishing that.

There was some discussion earlier, if I might interject something, Mr. Chairman, about ADP technology and why we have not installed it if the money is there. Essentially, we entered into an agreement with OMB to meet certain performance requirements before the installation of some computer applications. When we failed to meet the performance requirements, they called a time out on us and put us on hold for a while. We are back on track now.

Nonetheless we have to demonstrate everything through pilots first. That has been the recent history, and we certainly have had a lot of people looking over our shoulders. We have had 21 various management consulting groups either assess or reassess our computer modernization, and we think we have had enough.

Mr. EVERETT. I see the yellow light is on, and I have imposed a 5-minute limit on everybody, including the Chairman, but I think I am going to call it a second round.

Let me ask you another question here. A recent GAO report titled "Better Assessments needed to Guide Claims Processing Improvements" noted that efforts to reorganize regional offices have resulted in, one, information about the effectiveness of individual initiative is inconclusive; two, RO's are reluctant to make changes or face difficulties in making certain changes; and three, VA does not have a formal mechanism to get the information out about the content and the effectiveness of regional initiatives.

Can you give us a little detail on the organization of the VBA regional offices in addressing these particular issues?

Mr. VOGEL. We can, indeed, Mr. Chairman. I think some of the commentary of the directors from the five regional offices that were here shoots some holes in some of those GAO conclusions about how they are learning from each other, and experimenting with things at regional offices. I think that one can get wrapped up in measuring things, and impede creativity in doing so.

Our managers are entitlements managers. We want consistent outcomes in our decision-making, whether we are underwriting loans or adjudicating compensation or pension claims. The law rather well prescribes what those outcomes ought to be. We want to be able to manage in a way that leads to those outcomes consistently without Central Office prescriptions throughout. For years, we lived on manuals which prescribed how things ought to be done. We are now rewriting them. Some of the times, if we get the outcome, a legal outcome, which is a correct and just legal outcome for the veteran, that is all we want. We want to free them up. Mr. Avent may have more to add. He is essentially the Chief Operating Officer of the Veterans Benefits Administration.

Mr. AVENT. I think you heard from the Directors this morning where they stand on implementing models. They are all in different stages of implementation. I think one of the burdens that we have, as we get into this, is keeping the work moving as we try to go through change. It is very important that there is a buy-in from the employees, as Gary mentioned, and that we provide them with training. But we must also continue processing claims as we move through change.

Our regional offices are at different stages. Despite the heavy workload, they are still making changes. The word you heard from

them is, they are moving forward, as I think we are throughout the entire organization.

Mr. EVERETT. Mr. Hickman, did you have something?

Mr. HICKMAN. I want to add one comment. Earlier this week I was at the Eastern Area Directors Conference at which 16 Directors explained where they were and where they were going to be regarding reorganization. Through that forum, the other Directors were learning by listening and were gathering ideas to consider for adoption within their own reorganization models.

So there is a network within the organization in which ideas are passed back and forth. People learn about the ideas that work them and try to implement them in their own organization.

Mr. EVERETT. Gentlemen, thank you very much, and we have learned a lot today and we have had some good testimony. I think, though, that we have also heard the information highway described as a dirt road—I think by Mr. Thompson.

In closing, I would like to thank all the panelists for being here today. As I said, we have heard some interesting ideas and some facts—there are some facts out there that still cause us concern.

Obviously, in my opinion, additional oversight will be required. So today I am announcing a series of oversight hearings devoted to VBA's computer modernization program. The staff will notify the appropriate agencies soon to set the dates and the agenda, and we certainly look forward to hearing from many witnesses on the subject so we can improve the services that we jointly want to offer the veterans, and they also deserve.

This hearing is adjourned.

Mr. VOGEL. Thank you, Mr. Chairman.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned.]

APPENDIX

STATEMENT BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION, INSURANCE, AND MEMORIAL AFFAIRS

HONORABLE LANE EVANS

May 12, 1995

Thank you Mr. Chairman.

I am pleased to see that our first hearing reviews VA's claim adjudication system. There are few, if any issues, as pressing as the need to improve VA's adjudication system so that veterans can receive their benefits in a timely and equitable manner.

As the former chairman of the Subcommittee on Oversight and Investigations, I have heard from many veterans and VA employees over the past eight years about the problems facing VBA. This subcommittee has also held hearings in almost every Congress about the timeliness and quality of benefit decisions.

We have learned from these hearings and suggested changes to improve the timeliness and quality of VBA's adjudication system. Last year, we passed the Veterans Benefits Improvement Act of 1994 which changed the requirements for proof of relationships and acceptance of income verification. In Public Law 103-271, we revised the income verification requirements for VA's needs-based pension program.

Realizing that these changes were not enough, we also authorized the establishment of the Veterans' Claims Adjudication Commission. The Commission is an expert panel charged with reviewing how VA processes benefit claims and to propose ways to improve the process.

VBA must get to the point where claims are decided quickly and correctly the first time. I do not want to hear complaints from widows whose spouses died before their claims were adjudicated or from veterans whose claims were rejected because VA failed in its duty to assist by not fully developing their cases.

Now that the Oversight Subcommittee has been eliminated, the role of this subcommittee is even more important. We must vigorously oversee VBA's programs and ensure that the changes we mandate are implemented in regional offices and at the Board of Veterans Appeals.

We must also recognize what VBA does right. I hope that this subcommittee continues the practice I began last year by identifying VA's outstanding accomplishments. VA staff throughout the nation are dedicated to helping veterans and striving to improve VA's

internal processes. These efforts should be commended.

The witnesses who are scheduled to appear this morning are all dedicated to helping veterans. They include persons who have first hand experience with the problems facing veterans. They supervise thousands of employees who serve veterans by implementing the laws Congress has passed.

It is my pleasure to recognize one of today's witnesses, Montgomery Watson, Director of the Illinois' Regional Office. He is a Vietnam veteran with a distinguished service record. He has risen to his current position from an entry-level position as a claims examiner in San Francisco in 1972.

Under his leadership, the Chicago regional office continues to do an outstanding job. His staff, especially George Kason, are professional and willing to go that extra mile to help veterans. George and my staff have worked closely for years. He has made the lives of many of my veterans easier. I thank him for his efforts.

It is our responsibility to ensure that these professionals have the resources they need to do their jobs. We must fight to protect VA's funding and make certain that VBA's funding request is honored.

Funding for VBA and BVA comes under the category of discretionary spending, which means that it is subject to the whims of the budget and appropriations committees. Unfortunately, this may be a losing proposition. While talking a good game, the new leadership of the House and Senate has clearly shown that it believes that balancing the budget is more important than protecting veterans.

Last month, the House passed legislation to reduce the amount available to the Appropriations Committee by \$100 billion over the next five years. Spending for discretionary programs would decline from \$546 billion in 1992 to \$522 billion in the year 2000. The size of the decrease is obviously greater if inflation is taken into account.

Earlier this week, the Republicans on the House Budget Committee forced through a budget resolution that would further cut discretionary spending.

Under Chairman Kasich's proposal, support for VA's programs and services would decrease by several hundred million dollars next year because he wants to freeze funding at this year's level minus the amount appropriated for major construction. While a relatively minor increase is proposed for FY 1997, funding would be frozen at in the out years.

The Republican budget will devastate veterans programs. In fact, when compared to CBO's projected baseline, their budget would decrease discretionary funding for veterans

programs by almost \$5.7 billion a year by 2002.

If things weren't bad enough, the House proposal increases fees imposed on certain veterans and the Senate proposal restricts future eligibility for some veterans programs. And all this is being done to balance the budget while giving the rich a multi-billion dollar tax cut.

This is deplorable. Forcing disabled veterans to suffer to pay for tax cuts is not right. Before this Congress, we always remembered the service and sacrifice of our veterans.

I hope that this trend will change and that this Congress will give veterans the respect they deserve. I also hope that Mr. Vogel will listen carefully to the testimony presented today and take some of the suggestions to heart. All the witnesses are stakeholders in the quest to make VA's quality second to none.



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"VVA, At Work in Your Community"

STATEMENT OF

VIETNAM VETERANS OF AMERICA

Presented by

Brian A. W. Campbell
Chair, Veterans Advocacy Committee

Accompanied by

William Russo, Esq.
Director, Veterans Benefits
and
William F. Crandell
Deputy Director, Government Relations

Before the

House Veterans Affairs' Committee
Subcommittee on
Compensation, Pension, Insurance and Memorial Affairs

on the

Veterans Benefits Administration's
Processing of Claims
and the
Veterans Benefits Improvements Act of 1994

May 12, 1995

INTRODUCTION

Mr. Chairman and members of the Subcommittee, Vietnam Veterans of America (VVA) appreciates the opportunity to present its views on Veterans Benefits Administration (VBA) processing of compensation claims in general, and Gulf War claims in particular. We will also offer testimony on the effects of PL 103-446, the Veterans Benefits Improvements Act of 1994.

Processing of Compensation Claims

All of us have addressed the grim persistence of the VBA case backlog so many times that there is little we can add to it. VA is taking a number of appropriate steps to gnaw away at it. VVA's greatest concern remains the Regional Offices (ROs), which keep churning out badly-prepared cases, feeding the backlog even as the oldest cases are resolved.

We believe that the numbers are at least moving in the right direction, if not very quickly. This is due in large part to three factors. One, heavy use of overtime has allowed BVA staff to grind away at the caseload, but at a personal cost that cannot be maintained long enough to solve the problem. Two, the recommendations of the BVA Select Panel on Productivity Improvement which have been implemented to date have enabled the Board to work a bit more effectively. Some of those recommendations were incorporated into PL 103-446, which we will discuss below. Three, the complementary recommendations of the Blue Ribbon Panel on Claims Processing are also being implemented, and VVA expects them to help with the source of the backlog, the beleaguered ROs.

Throughout the past two years, Vietnam Veterans of America and the other veterans service organizations (VSOs) have testified before the forerunner of this Subcommittee on the backlog problem. We have given Subcommittee staff detailed recommendations based on our collective day-in-day-out experience with the claims system, and we have seen little that we recommended appear in legislation. Because this is a reorganized Subcommittee with a new Chair, new Members and new staff wrestling with these problems, we urge you to take a fresh look at the testimony from VVA and the other VSOs given in a hearing before the Compensation, Pension and Insurance Subcommittee on October 13, 1993, and at testimony submitted for a hearing scheduled for July 14, 1993, that was postponed. Both of these should be in the Subcommittee's files, but we would be glad to furnish fresh copies if they are not.

Gulf War Compensation

We are glad to see this Subcommittee's eagerness to monitor the effectiveness of compensation provisions in PL 103-446 aimed at providing benefits for Persian Gulf War veterans. For the most part, it is still early for thorough evaluation of how this mandate is working, though it is clear that VA's outreach efforts are succeeding. Even so, we are troubled by stories we are beginning to hear.

There are indications that Gulf War veterans afflicted with mysterious health problems face their own updated version of the legendary Catch-22. Some veterans applied for compensation before PL 103-446 was adopted and were turned down because they had undiagnosed ailments and no connection to service could be confirmed. By the time PL 103-446 went into effect, however, these veterans – still disabled by these same health problems – had received diagnoses for Chronic Fatigue Syndrome or some other equally hard to document condition. Upon refileing their claims, they were turned down again because their ailments were no longer undiagnosed illnesses that became manifest during or after the Gulf War, and no absolute proof exists even now as to what caused these problems. In my own work as a benefits representative, I have had only two of fifteen "Gulf War Syndrome" cases where benefits were granted.

The clear intent of Congress last year was to provide not only health care but compensation for these veterans. They have been disabled from working by something that has a strong statistical association with service in the Gulf War. Members of the forerunner of this Subcommittee and its Senate counterpart worked long and hard with representatives

of VSOs to craft a bill that would allow these damaged veterans to receive the same kind of financial help that any disabled veteran is entitled to receive. It was also VA Secretary Jesse Brown's clear intent to do provide that aid.

We need to know now why VA is having a problem with this. The roadblock, we think, is not that Congress cannot craft a workable bill – it can. The question we must ask the Veterans Benefits Administration is what is going on here. The problem, whatever it is, must be corrected immediately if VBA's credibility is to escape damage.

Early Evaluations of PL-103-446 – A Lot of It Is Working

The Veterans Benefits Improvements Act of 1994 was an ambitious undertaking by Congress, combining some eleven titles, three of which dealt directly with adjudication of claims in a combined approach aimed at the VA's unacceptable claims backlog. Title II, which dealt with salaries and appointments of Board members, had our strong support. Title II was intended to stop the flow of experienced Board members leaving for Social Security Administration Administrative Law Judge (ALJ) positions by restoring historical pay equity and eliminating arbitrary term limits for reappointment without any clear standard. With the Board's case backlog, it cannot afford to lose any more members. Since the passage of PL 103-446, we understand that no Board members have left the Board to become ALJs. VVA maintains its support for Title II.

Title III set up a number of adjudication improvements, some of which are working and some of which need something more. The provision allowing the use of uncertified documents with respect to dependents or marital status is a great success. It saves time, it saves money, and it ought to cut the remand rate where such documentation is concerned.

Reports from VVA service representatives in the field have been extremely positive regarding the VA's acceptance of these documents. This helps to speed up the claims development time rather than having to wait for certified copies to be received from courthouses or hospitals. This provision is especially helpful for claimants who are not represented by a service representative with the power to certify these documents under 38 C.F.R. §3.25 (c)(2)(11), for example.

PL 103-446: Reports by Private Physicians

VBA is not up to speed, however, on the new mandate allowing medical examinations by private physicians without the need for duplicative examinations by VA physicians. The idea behind this provision was to reduce the caseload for VA doctors while allowing veterans to use private physicians familiar with their medical records. However, private physicians and specialists need guidelines that spell out the required elements to make their reports adequate for rating purposes.

A usable report from a private physician is not a note that says, "Johnny isn't feeling well, please give him some money." It must spell out, in the same kind of detail required of a VA doctor, the symptoms, the diagnosis, and the extent of disability. Current VA regulations require that adequate exams from private physicians for everything other than original claims – which require more documentation in terms of establishing service connection – be accepted. We understand that additional regulations are being written now for original claims.

On the operational side, VBA is still thinking about how to handle such private reports. Now that the VA's Physician's Guide is on computer, access means everything. It is not a problem for fee basis doctors who already have a connection with VA, or for doctors working with VSO claims representatives in ROs. There remains a problem of access, however, for precisely the same private doctors to whom veterans resort due to a lack of handy VA facilities. If the Physician's Guide is to remain the benchmark, increased access must be created.

In the alternative, VA could help this process, if less reliance on the massively

detailed Physician's Guide can be made acceptable, by developing clearly articulable guidelines and making them available to private doctors through medical associations and VSO claims representatives. Much of the idea behind the use of private physicians was in harmony with the government-wide drive to cut to essentials and eliminate paperwork. Clearly articulable guidelines would need to contain certain kinds of information, but, in many cases, a great deal less detail than VA now requires of its own staff. Leaner judgment qualifications would also free VA staff from needless work.

More importantly, VA rating specialists must accept such reports as valid when they meet the test of completeness, or this provision was enacted for nothing. So far we see little sign of such acceptance. Where the government's doctor and the private physician disagree, the report of the private physician must not be discounted. It is a second medical opinion which would be valid standing alone if it were uncontroverted. The rating specialists must not be permitted to seize upon the report of an overworked government doctor to deny or minimize a valid claim from a veteran disabled in the service of this nation. The private exam must be given its due, and where doctors disagree, the decision must be made on the whole record, and not simply on the VA doctor's report.

PL 103-446: Expedited Remands and Prescreening of Claims

The most aggravating delays in the BVA appeals system have come from claimants waiting in line, with papers warehoused until their turn comes. This has been at its worst when cases reach BVA only to be remanded for needed information or inadequate development. The expedited remands and prescreening of claims authorized by PL 103-446 show great promise.

Prescreening for obvious holes in the claim and sending them back for development while they wait in line can save months of bouncing back and forth, and can keep BVA from seeing as many ill-prepared cases. Expediting remands by keeping the original docket number order promises to keep cases that have already been remanded for the same kinds of inadequacies from taking as long as they used to.

The one concern that VVA has is that remands are still taking up most of BVA's efforts, and are slowing down newer appeals. What this accentuates is the need for reform at the RO level, so that the whole system stops turning down good claims through sloppy work. The problem is still at the ROs.

PL 103-446: The Veterans' Claims Adjudication Commission

VVA looks forward to seeing the report of the Veterans' Claims Adjudication Commission when it comes out. Such a study is long overdue. We have called for an independent study over a span of several years.

We will withhold our judgment on the Veterans' Claims Adjudication Commission until we have a chance to evaluate its findings. It concerns us that we have not yet been solicited for specific data and evaluations. VVA expressed concern on a number of occasions that allowing VA to evaluate how BVA works is not a good idea, but that was the outcome of Title IV of PL 103-446. VA was allowed to appoint the Veterans' Claims Adjudication Commission to report to Congress and the Secretary of Veterans Affairs. While it is in VA's interest as much as anybody else's to have a ruthlessly dispassionate evaluation of how the system works, VA self-evaluations have tended in the past to be overly optimistic. VVA hopes that this will not be the case with the Veterans' Claims Adjudication Commission. We will not know whether our hopes have been fulfilled until we read the report.

Conclusion

We believe that VA is making important improvements in its benefits services to the whole range of men and women who are today disabled from their service to their country. There is clearly a great deal more to be done. VVA applauds the progress that has been made, and stands ready to assist in any way possible with finding solutions to the remaining problems.

Mr. Chairman, this concludes our testimony.

STATEMENT OF
BOB MANHAN, ASSISTANT DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE,
AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

**OVERSIGHT OF VETERANS BENEFITS ADMINISTRATION'S (VBA) PROCESSING OF
COMPENSATION CLAIMS, AND THE EFFECT OF P.L. 103-446 "THE VETERANS'
BENEFITS IMPROVEMENTS ACT OF 1994" ON VBA.**

WASHINGTON, DC

MAY 12, 1995

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for inviting the Veterans of Foreign Wars of the United States (VFW) to participate in this very important hearing. Many of our 2.1 million members participate in the compensation entitlement programs, as do members of our Ladies Auxiliary. For purposes of this hearing, I shall limit the scope of the entitlement programs to only payment to living veterans who have suffered impairment of earning power from service-connected disabilities. These disabilities were either incurred in or aggravated during active military service. The amount of payment to the veteran is based upon the disability or combination of disabilities and their impact on earning capacity.

A major part of this compensation entitlement is survivorship benefits. Survivors are eligible for benefits if the veteran died while on active duty, or died as a result of disabilities incurred while on active duty. Survivor benefits are payable as either death compensation or Dependency and Indemnity Compensation (DIC). In sum, this entitlement is intended to compensate for the loss of family income.

Generally speaking, VA has made little improvement on the delivery of entitled benefits to veterans. There are still large backlogs of compensation and pension claims throughout the system. There is still the problem of timeliness. It takes too long to process an initial claim. This problem becomes worse when a case is appealed. Everyone agrees that VA must do a better job of staffing, equipping, and funding if VBA is to do a better job in less time to process claims.

In May 1994 VBA took about 212 days on average to process a claim. At the end of March 1995 VBA's time was down to 168 days to complete an original claim. Reopened claims were taking an average of 135 days to complete. Response time for the Board of Veterans Appeals (BVA), the time it will take to issue a decision for a new appeal entering the system, is an average of 850 days or a period of 28 months. Because the BVA will be the subject of a later hearing we will not go into any further discussion of the Board's procedures and problems.

The VA recently conducted a survey showing that veterans think nine weeks is a reasonable time in which to process an initial disability compensation claim, seven weeks for a re-opened compensation claim, and six weeks for a DIC claim. Obviously, reasonable timeliness is a subjective concept. Regardless, the VFW does not believe that present VBA processing times are reasonable at all.

Another measurement of VBA's effectiveness regards the quality of decisions made. In FY 1994, 48 percent of cases appealed by veterans to BVA were being returned because of incomplete work or erroneous decisions. The remand rate for the first half of FY 1995 is presently a fraction above 49 percent.

The VFW believes the veterans compensation program will continue to experience a large volume of initial claims because of the:

- downsizing of the military services;
- Gardner v. Brown Supreme Court decision to award compensation to veterans who were disabled by VA's medical treatment, even in those cases where the VA was not at fault and there was no accident; and,
- Title I -- "Persian Gulf War Veterans" of P.L. 103-446. This five month old law authorizes payment of compensation to veterans who served in the Persian Gulf theater and are suffering from a chronic disability resulting from an undiagnosed illness. This same legislation allows DIC spouses to elect the VA survivor benefit that is most favorable to their specific circumstances.

Public Law 103-446, enacted on November 2, 1994, has 11 major sections or titles. Only the following three titles have direct impact on this hearing. They are:

- Title I -- Persian Gulf War Veterans;
- Title III -- Adjudication Improvements; and,
- Title IV -- Veterans' Claims Adjudication Commission.

Regarding Title I, it is still too early to recognize any trends or problems with Persian Gulf veterans' claims. It is a matter of record that the VFW strongly supported bill H.R. 4386, which incorporated the key provisions to pay compensation to veterans whose disease or personal injury was not supported by a medical diagnosis.

The VFW is also on record supporting the two major actions in Title III to improve primarily the problem of timeliness in processing compensation claims. First, we like the idea of accepting written statements from a veteran rather than documentation regarding marital status. In this vein we strongly supported having VA accept a sufficiently complete private physician's examination for purposes of adjudicating a claim.

Second, there are the administrative actions to improve regional claims process, to include the feasibility of reorganizing some, many, or possibly all adjudication divisions in VBA's 58 regional offices. We expect VA to cover this area in more detail today. However, the VFW has been monitoring progress to date and we believe many improvements are underway. The law requires VA to submit a written report to congress about a year from now on their reorganizational efforts. It is a matter of record that Secretary Brown appeared before a Senate hearing on May 3 and stated his department's goal is to process a claim in an average of 106 days by 1998.

Last, the VFW was a staunch supporter of any and all actions to establish a Veterans' Claims Adjudication Commission. This is the entire thrust of Title IV. We now have nine highly qualified persons, all appointed by the Secretary of Veterans Affairs. This Commission will primarily conduct a comprehensive evaluation and assessment of VA's system for disposing of veterans claims. A final report is to be submitted in May 1996 to congress and the Secretary. The VFW involvement to date has been to attend a two day Commission meeting held in mid-April. It was an overview of the entire claims processing system, including BVA and The United States Court of Veterans Appeals (CVA).

The VFW offers two suggestions to help VBA respond in a more timely and positive manner. They are to exempt VA benefits from the "pay-go" provision of the Budget Enforcement Act, and to redefine veterans' mandatory and discretionary spending categories. Each is discussed as follows in more details:

- **exempt** VA benefits from the "pay-go" provision of the Budget Enforcement Act. The advantage to veterans is that Congress could allow new entitlements based on merit rather than based on arbitrary budget rules. A recent example of this "pay-go" problem is the fact that Persian Gulf War veterans were authorized to receive compensation for ongoing undiagnosed illnesses at the cost of having all other disabled veterans who receive VA compensation forfeit part of their cost-of-living adjustment (COLA). To carry this problem one step further, if a new conflict were to occur, new and more veterans would be required to share the existing fixed amount of funds, thereby diminishing every group's entitlement;

- **redefine** veterans' mandatory and discretionary spending categories to conform to the intent of enacted authorizing legislation. Said another way, compensation and pension entitlements are mandatory spending whereas the cost of administering these same programs are considered in the budget as discretionary spending. This means that if discretionary money is not available to hire and pay for VBA employees who are responsible to adjudicate compensation claims the mandated entitlement becomes meaningless. Hence, the VFW asks Congress to require the costs of administering VBA's compensation and pension programs as a mandatory budget authority line item.

In closing, the VFW offers the following five legislative recommendations to either strengthen and/or expand the compensation entitlement program for veterans. They are to:

- **oppose** the taxation of VA benefits by allowing the Internal Revenue Service (IRS) to consider this as "income". The present law is not clear on this point. Therefore, we ask that legislation be enacted that will expressly exempt VA benefits from any form of taxation;
- **establish** mandatory timeliness standards for processing compensation and pension claims and for initiating vocational and counseling services;
- **repeal** the one-year limitation on payments of accrued benefits in those cases where a claimant's death occurs before the eventual favorable decision and the payment of benefits has been made and the retroactive benefits now allowed exceeds the one year-period. This would require a change to Section 5121(a) of title 38, USC;
- **correct** the inequity that exists in the requirement that military retired pay be reduced by an amount equal to any disability compensation received. The VFW takes this position on the principle that these two benefits are not duplicative but rather are based on two entirely different entitling objectives. Attached is a copy of VFW Resolution No. 637 titled "*Eliminate The Off-Set Of Military Separation Pay To Receive VA Disability Compensation.*"
- **remove** the three-year limitation on the time for amending federal income tax returns for those veterans who receive award of disability compensation for a period of more than three years retroactively. Attached is a copy of VFW Resolution No. 725 titled "*Amend Tax Returns For Military Retirees*".

This concludes the VFW's formal statement, Mr. Chairman. I shall respond to any questions you and this committee may have. Thank you.

STATEMENT OF
RICK SURRETT
ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
SUBCOMMITTEE ON COMPENSATION, PENSION, INSURANCE
AND MEMORIAL AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
MAY 12, 1995

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

The Disabled American Veterans (DAV) is pleased to present you with its views on compensation claims processing, including specifically claims of Persian Gulf War veterans, and the effects of Public Law 103-446, the Veterans' Benefits Improvements Act of 1994.

As an organization of more than one million service-connected disabled veterans and a women's auxiliary, one of the DAV's primary concerns is the effectiveness of the Department of Veterans Affairs' (VA) benefits delivery system. We are also very interested in VA's ability to serve the needs of Persian Gulf War veterans, particularly its ability to meet the challenges of properly compensating those Persian Gulf War veterans suffering from undiagnosed illnesses.

Overall, VA provides a wide range of services to veterans in an excellent manner. The quality of this performance stands as a tribute to the many dedicated employees who pride themselves in good service to veterans. The DAV is appreciative of this good work, particularly the work that is being done to reduce the claims backlog. There are, of course, areas where more progress must be made, but with this kind of dedication, the problems can be overcome.

The Veterans Benefits Administration's (VBA's) performance in claims processing is one most important veterans' issues to be addressed by this Congress. In more recent years, many problems with quality and timeliness in claims decisions have drawn the attention of Congress and the veterans' community to this area of VA's operations. The viability of the benefits programs depends on the quality of the substantive decisions and the timeliness of the system of delivery. The magnitude of the problems and the importance of the benefit, disability compensation, have caused the Congress, VA, and the veterans' community to search in earnest for remedies. Because many of the problems persist, that search continues, as evidenced by this hearing, and must continue until accurate, legally correct claims decisions are made in a timely manner.

Logically, the correct solutions cannot be fashioned until the causes, character, and proportions of the problems are defined. The character and proportions of the problem, the effect, provides some insight into the cause. And, in this instance one cause, poor quality, is itself a primary problem, with the effect, poor timeliness, being a secondary problem.

The claims appealed represent a small percentage of the total claims decided by VA, but to appreciate the proportions of the quality problems, we need look no further than VA's own statistics on appealed cases. During the first half of fiscal year 1995, the Board of Veterans Appeals (BVA or Board) remanded 49.4 percent of the VA regional office decisions because of some defect in the record. Another 18.7 percent were reversed by BVA. The sum of these two figures demonstrates that more than

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two-thirds of the regional office decisions reviewed on appeal to BVA involved errors which required reversal or remand (although we believe some remands by BVA are unnecessary). Unfortunately, the first remand does not always correct the deficiency. The percentage of cases that were remanded more than once grew from 2 percent in fiscal year 1991 to 10 percent in fiscal year 1994.

The BVA allowed 17.5 percent of the cases it reviewed in fiscal year 1994. Of the cases it remanded in fiscal year 1994, 20.2 percent or 9.7 percent of all appealed cases, were allowed by the regional office on remand. The combination of appeals allowed by BVA and by regional offices on remand is 27 percent. From 1977 to 1987, when VA apparently quit keeping this data, an average of 13.9 percent of the cases appealed were allowed by the regional office without necessity of review by the BVA. Assuming that average still held true in fiscal year 1994, more than 41 percent of the cases appealed were incorrectly decided the first time, requiring reversal sometime during the appellate process. This represents the proportions of the problems with quality.

The effect and secondary problem is poor timeliness. The average claims processing time at the regional office is improving, but the impact of erroneous claims decisions by the regional office is seen in the appeals process. In other words, poor quality does not have an immediate or direct effect in slowing the process at the regional office, but subsequently overloads the appellate process. The number of appeals to BVA, which are at a rate exceeding BVA's capacity to decide them, causes backlogs and protracted delays at that level.

During fiscal year 1994, the average total BVA appellate processing time for appeals involving no remand was 678 days, one remand 1,015 days, and more than one remand, 1,350 days. These times do not include the number of days it took the regional office to decide the claim.

As to the character of the problem with the high BVA remand rate, this is simply a matter of inadequate development of the record. Many times the claims file contains references to other medical records which are pertinent to the claim but which the regional office fails to obtain. As to the character of the errors accounting for the high reversal rate, these are varied, and we have no composite.

The DAV believes that it would be beneficial for the BVA decision to specify the errors of the rating board in reversed and remanded cases, and perhaps even include the support for sustaining the findings and conclusions in a proper denial or point out omissions or deficiencies in a correct but not well-reasoned denial. This would provide valuable guidance for rating boards and might even enhance the objectivity of the BVA in its decisions. Rating boards would also be forced to confront their own errors, where they are not under the current practice.

In its efforts to improve quality in claims development and adjudication, VA may find it helpful to survey remanded and reversed cases to determine which types of errors predominate and focus training and remedial measures in these areas first. It seems logical that, if VA can more specifically determine the substantive areas in which errors in compensation claims tend to recur, it will have gone a long way toward determining the underlying causes.

Another concern that arises from the situation in which claims go through multiple decisions is fairness. Courts have recognized that there is a danger of a decision maker becoming

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committed to a decision once it is made, thereby making it possible that there will be a tendency to seek vindication for or reinforce a previous decision when reviewed again on remand. If the needed record development and pertinent supporting reasons or bases are included in the initial decision, that not only will more likely result in a proper decision, alleviating delays and the need for duplicative and costly reviews, but it will also tend to ensure that the record development and reasoning are objective and not tailored to a predetermined result.

While VA's remand and reversal rate has not shown improvement, VBA has undertaken a whole host of new initiatives to streamline and modernize claims adjudication procedures which focus more on the procedural aspects of claims adjudication. If these initiatives ultimately prove effective in improving procedural efficiency and productivity, they should also should prove secondarily beneficial to quality. Some of these initiatives, such as training in claims development, do involve quality more directly and hopefully will begin to show positive results in the near future.

Similarly, some of VBA's technological modernization should prove beneficial. Such programs as VA's "Automated Reference Materials System" should improve timeliness, uniformity, and quality. This system combines the different legal authorities and administrative directives for easier research.

"Rating Board Application" is a program that provides prepared text for elements of rating decision which recur in many claims and which therefore should be uniform. Uniformity is certainly a desired quality in any mass adjudication system. It is believed, however, that VBA should carefully monitor the product obtained with the aid of this program. In a proper adjudication, the decision maker should evaluate the implications of the facts, choose between alternatives, and make findings of fact, apply all pertinent law, and arrive at conclusions. If not properly used, this program might allow a tendency for adjudicators to pick a result, without first going through a careful analysis and reasoning process, and then simply "plug in" the boilerplate that corresponds to that result. Short of such outright misuse, the program might, if not monitored, allow the decisional process to become overly mechanical where the adjudication is guided, step by step, more by progressing according to format than by actual reasoning through a sequential methodical course to the conclusion. Important variables and individual qualities in the particular case might tend to be overlooked. We would hope that VBA will consider this possibility carefully in its quality control efforts.

The modernization program is a promising effort. A recent Center for Naval Analysis study found: "The fielding of VBA's Stage I modernization hardware, commercial off-the-shelf software applications, and transitional applications has gone well and has the potential to significantly improve customer service and VBA productivity."

It is unclear how effective VBA's efforts to restructure the claims processing system has been to date, however. The General Accounting Office (GAO) examined these initiatives and concluded: "VA has not developed adequate evaluation plans...to allow it to judge the relative merit of various initiatives or the circumstances under which they work best. Without such information, VA will not have a sound basis for determining what additional changes, if any, should be made and guiding future improvement efforts." General Accounting Office, Veterans Benefits: Better Assessments Needed to Guide Claims Processing

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Improvements (January 13, 1995) (GAO/HEHS - 95.25). The Secretary of Veterans Affairs differs with GAO, however. He states: "VBA has an evaluation process already in place that includes assessment of objective performance indicators.... Through this process VBA reviews, monitors, guides, assures and, when appropriate, exports those initiatives of significance." Id. at 30.

There is general agreement that improvement in claims decisions presents VA with an urgent, complex, and monumental challenge. The DAV is appreciative of the resources and efforts that are being dedicated to this cause. The DAV appreciates the commitment VA has shown in this area and the ongoing interest and concern of this Subcommittee. We hope to continue to be a partner in this exercise.

Compensation for undiagnosed illnesses of Persian Gulf War veterans was authorized by title I of Public Law 103-446, the Persian Gulf War Veterans' Benefits Act. Specifically, the law provided for compensation for any Persian Gulf War veteran suffering from a chronic disability resulting from an undiagnosed illness that became manifest during active duty in the Persian Gulf War or to a 10 percent degree within a presumptive period, to be prescribed by the Secretary of Veterans Affairs. Public Law 103-446 required the Secretary to develop a medical evaluation protocol, conduct a comprehensive outreach program for these veterans, and perform research, studies, and surveys related to health problems of Persian Gulf War veterans and their families.

The DAV commends Secretary Brown for the promptness with which he promulgated the regulation, 38 C.F.R. 3.317, implementing provisions for compensating undiagnosed illnesses. These claims are being processed on a priority basis. Because of the unusual nature of these illnesses, VA has assigned these claims to four specially designated regional offices, Louisville, Kentucky, Nashville, Tennessee, Philadelphia, Pennsylvania, and Phoenix, Arizona. Unfortunately, for these regional offices, these claims add to a number of other claims already being handled on a priority basis, such as remanded cases and original claims. We understand that this is substantially delaying action on claims without priority status, some of which are being transferred to other regional offices for adjudication. Hopefully, this will prove to be only a short-term problem, with the load becoming more manageable once the bulk of the Persian Gulf War veterans' claims are adjudicated. Nonetheless, VA should take all necessary action to ensure that the impact is minimized, with Persian Gulf veterans receiving deserved priority and other veterans receiving timely service also.

While the DAV commends the Secretary's prompt action to promulgate a regulation governing compensation for these special cases, we disagree with the limitation on the post-service manifestation period to two years following Persian Gulf service. Given the unique and unprecedented nature of these illnesses, we do not believe that VA had adequate data or relevant experience from which to conclude as it did that manifestations of these conditions would never occur more than two years after exposure.

The two-year period was arrived at from these conclusions by VA:

Based upon [VA's] experience with chronic diseases with similar signs and symptoms, it is [VA's] view that most illnesses related to Persian Gulf service would become manifest within one year after such service. However, we know of no evidence to suggest

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that any undiagnosed illnesses would take longer than two years to become manifest.

Because the causes, underlying processes, and course of these illnesses are unknown, there is no sound basis to assume that the delayed manifestation of clinical symptoms and signs will be comparable to other chronic diseases with which VA has experience. Under these circumstances, the chronic diseases with similar signs and symptoms, while possibly not irrelevant, have no known correlation to these totally new illnesses. Moreover, it is known that very dissimilar pathological conditions can produce similar signs and symptoms.

It follows that the absence of any known evidence suggesting a manifestation period of greater than two years is not a sound basis to fix the period of two years. So soon after the appearance of these unknown illnesses, the absence of known evidence provides no reason to conclude one way or the other on this question.

Also, we disagree wholly with the conclusion that two years is sufficient time for all affected individuals to have had the opportunity to document the presence of illness. We view those who chose to remain and continue to remain on active duty status as a cohort of Persian Gulf veterans who would not, for a number of reasons, least of which may be the adverse effect on their careers, come forward complaining of symptoms attributable to their service in the Gulf.

Therefore, in view of the very nature of the unknown illnesses in question, we believed when the proposed rule was published, as we still believe today, the two-year manifestation period to be inappropriate. Rather, we suggest an open manifestation period be established, with the understanding that as medical and scientific research begins to produce answers and conclusions, the issue of the manifestation period could be revisited.

In support of our position, we refer this Subcommittee to the VA's own statistics. As of April 28, 1995, only 114 individuals were granted service connection for undiagnosed illnesses. During the same period, 1,808 individuals were denied service connection for undiagnosed illness, of which almost half, 847 individuals, were denied because their disability did not manifest during service or within the two-year manifestation period. The next highest reason for denial of benefits was that no discernible illness was shown by the evidence of record.

To make this legislation meaningful to the large number of Persian Gulf War veterans who are experiencing symptoms beyond the somewhat arbitrary two-year period, that limitation must be removed. For whatever the reason, many Persian Gulf War veterans did not come forth to receive medical treatment within two years of their departure from the Persian Gulf or did not start to develop the symptoms within that period. Let's not close the door on these veterans!

The DAV notes that the incidence of undiagnosed illnesses in Persian Gulf War veterans was deemed of sufficient magnitude to require rounding down of the cost-of-living increase for all compensation and DIC recipients to cover the cost of compensating these veterans. Yet, so far, 114 representing only 5 percent of these veterans, have been granted compensation. The DAV suggests that VA survey the denials to ensure that these decisions involved careful consideration of the inherently difficult factual issues, consistent with the intent of Congress to compensate these individuals despite the problematic nature of their claims.

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Outreach efforts under Public Law 103-446 includes a collaborative effort by Veterans Health Administration and Veterans Benefit (VBA) to advise Persian Gulf veterans of potential entitlement under the law. A toll-free Persian Gulf Helpline was also established by VBA on February 2, 1995. The Helpline is operated from the St. Louis Regional Office and is staffed by contract employees. The staff answers questions on medical and compensation benefits, takes inquiries on pending claims, and makes referrals to other areas within VA when necessary.

Public Law 103-446 contained a wide range of other provisions. Title II amended the terms of appointment of members of BVA, and established a performance review and recertification process. The BVA Chairman has formulated performance standards as required by section 201, and these have been approved by Secretary Brown. Under the plan, performance reviews will be conducted annually "to ensure that high standards of decisional quality and productivity are maintained," according to the plan.

The criteria require demonstrated proficiency in (1) legal writing and analysis, (2) timeliness, (3) productivity, (4) case management, (5) conduct of hearings, (6) cooperation and organizational support, and (7), for Chief Members, supervisory and management skills. The Performance Review Panel may consider all relevant sources of information as to the performance of the Board member, providing that its approach is fair and consistent for all Board members reviewed. Sources of information may include, but are not limited to:

- a. Decisions and orders of the U.S. Court of Veterans Appeals and other Federal courts which review a decision of the Board member.
- b. Referrals of the Board member's work product from the Board's quality review section and other sources.
- c. Referrals by the Board member of examples of his/her work product.
- d. Statistical information and other data prepared by the Board, including data on timeliness and productivity.
- e. Information regarding the developmental activities of the Board member, any awards or other recognition received by the Board member, accomplishments in special projects, other work assignments, or on task forces, and reputation in the field.
- f. Written comments on the Board member's performance from supervisory personnel, appellants and their representatives and other interested parties.

The Board member may submit a statement of accomplishments and other documentation giving evidence of his or her performance and the contributions made to advance the Board's goals.

The DAV is particularly pleased that information from sources outside the Board will be considered. It is believed that Court decisions and comments from veterans, representatives, and other interested parties will provide an independent reflection on performance.

The DAV is also pleased that, in the area of case management, a factor will be whether the "Board member avoids unnecessary development of the record or other action which delays a case or production of a work assignment." The DAV

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believes that the current high remand rate is partially attributable to unnecessary and improper remands in some instances. This is an area which should be monitored closely, not only in connection with performance review, but also in quality review.

Title III of Public Law 103-446 instituted changes intended to improve adjudication procedures and timeliness. Included were requirements that remanded claims received expedited treatment. Preliminary information is spotty but suggests that these requirements are being observed by most regional offices. There has been insufficient time to determine if this has had a significant effect in speeding decisions in these long-pending cases.

Also included was authorization for the BVA to screen appeals to quickly identify those cases which must be remanded to the regional offices. A prescreening unit, comprised of 2 BVA members, 6 attorneys, and administrative support began prescreening cases in November 1994. As of April 27, 1995, this unit had remanded 1,144 cases, accounting for 20 percent of the total cases prescreened. Some cases, such as ones previously remanded or those in which a hearing is requested, are not passed through this unit. Again, there is insufficient experience at this time to determine the effect this change will have on overall productivity and efficiency at BVA. This certainly should shorten the pendency of the cases remanded on this fast track.

Title IV established the Veterans Claims Adjudication Commission, composed of nine members, appointed by the Secretary from the public and private sectors. The Commission is charged with carrying out a study to evaluate the claims adjudication system to determine (1) the efficiency of current processes and means for increasing efficiency, (2) means for reducing pending claims, and (3) means for improving capacity of VA to adjudicate claims in a prompt and appropriate manner. The Commission is to assess the effect of several other factors on the process.

To date, the Commission has met twice. The members have been familiarized with the VA system and current timeliness measurements in VBA and at the Board. The Commission intends to review thoroughly the VBA's implementation of the recommendations of the Blue Ribbon Panel on Claims Processing, to determine progress being made, adherence to the recommendations, and the effectiveness of the initiatives. As noted earlier, there are some concerns about these issues.

The DAV compliments the Secretary on his choices of Commission members. With this composition of knowledgeable, qualified, and experienced members, the Commission will likely make a very meaningful contribution to the endeavor of improving the claims processing system.

Public Law 103-446 included a great many provisions designed to improve claims processing and other VA programs. For these, it is yet too early to measure or get a sense of the effects. The DAV stands ready to provide this Subcommittee with additional information when appropriate, however. We are confident that these well-reasoned measures will enhance the VA's services to its beneficiaries.

In summary, while VA has commendably undertaken many initiatives to improve productivity in claims processing, it needs now to focus its improvement efforts on the quality of its decisions. Accomplishment of the proper record development and a well-reasoned, fully supported decision the first time will not only alleviate delay for the veteran whose claim is being decided, but will lighten the load on the system, and should

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improve timeliness in all claims decisions. There also needs to be close monitoring of the quality of decisions using stock paragraphs from computer programs, and BVA decisions should specify regional office errors. Similarly, the allowance rate of compensation for Persian Gulf War Veterans appears very low, and the 2 year presumptive period should be revised, with the VA closely monitoring these decisions to ensure that they are appropriately liberal. If the performance standards for BVA members are closely followed, that should ensure quality decisions at that level.

The DAV requests that this Subcommittee continue its careful oversight of VA operations, especially to ascertain if VA is instituting proper measures to bring about real progress in improving the quality of claims decisions, including any necessary changes in claims of Persian Gulf War veterans. The DAV looks forward to providing future testimony on the appellate process, both at the level of the Board and the Court of Veterans Appeals, because reforms are necessary system-wide.

This concludes the DAV's testimony on these matters. We appreciate the opportunity to present our views on these most important issues, and we thank the Subcommittee for its continuing interest, support, and actions on behalf of this Nation's service-connected disabled veterans .



STATEMENT OF
 RUSSELL W. MANK, NATIONAL LEGISLATIVE DIRECTOR
 PARALYZED VETERANS OF AMERICA
 BEFORE THE
 SUBCOMMITTEE ON
 COMPENSATION, PENSION, INSURANCE AND MEMORIAL AFFAIRS
 OF THE
 HOUSE COMMITTEE ON VETERANS' AFFAIRS
 CONCERNING THE
 OVERSIGHT OF THE VETERANS BENEFITS ADMINISTRATION'S
 PROCESSING OF COMPENSATION CLAIMS
 MAY 12, 1995

Mr. Chairman, and members of the Subcommittee, the Paralyzed Veterans of America (PVA) appreciates this opportunity to once again express our views on, and suggest solutions to, the inordinate and unacceptable delays facing veterans seeking compensation claims. PVA would like to commend Secretary Brown and the Veterans Benefits Administration (VBA) for their work in decreasing the average number of days required to process an original claim from 213 days to 166 days. Although we laud this accomplishment, we are also mindful that much needs to be done. We must bear in mind that this is a small step in the right direction. The goal of the VBA is to reduce this figure to 106 days by the end of fiscal year 1998. We believe this figure is still unacceptably high, and we look further to more work in this area. The pending workload has decreased from 574,000 claims in December, 1993, to 460,000. Again, we applaud this improvement, but 460,000 pending claims is still entirely unacceptable.

PVA has testified numerous times, and has offered a multitude of suggestions, concerning the claims backlog confronted by the Veterans Benefits Administration. PVA often feels like the narrator in *The Great Gatsby*: "so we beat on, boats against the current, borne back ceaselessly into the past." So we sit here today, to testify once again, on the unconscionable delays faced by veterans attempting to receive compensation from the agency charged with overseeing their interests.

The claims backlog, faced now by veterans of the Persian Gulf conflict, is a problem that has been faced by all veterans for a very long time now. PVA believes, as we have so often stated in the past, that a benefit delayed is a benefit denied. The delays that presently plague the entire system are not only unfair to individual veterans, but are unreasonable when placed within the context of this Nation's solemn promises to the men and women who have fought our battles and upheld our freedoms during the course of our history. PVA hopes that this hearing is the first step in our call to Congress, during our Annual Testimony, to take a conscientious and active role in the oversight of this entire system.

PVA does not want to see efficiency for the sake of efficiency where efficiency comes at the expense of the due process rights of veterans. We stand foursquare behind the concept of judicial review, and remain committed to seeing the benefits of judicial review extended to all veterans. The Supreme Court decision, issued in December, *Brown v. Gardner*, 115 S.Ct.552, serves as a powerful impetus to the VA to examine its regulations to ensure that they are consistent with the statutory law upon which they are based, and consistent with the decisions of the Court of Veterans Appeals. As Justice Souter stated in the unanimous decision, quoting from the opinion of the Court of Appeals for the Federal Circuit, "[m]any VA regulations have aged nicely simply because Congress took so long to provide for judicial review."

In 1988, Congress provided judicial review to veterans, and it is time that the gap between theory and practice be closed, a concept ably articulated by the Chief Judge of the Court of Veterans Appeals. It is time for the VA to labor energetically to ensure that Court decisions are applied rapidly and fairly to benefits claims. It is time for the VA to quickly change its practices and processes when these are in conflict with Court decisions, and it is time for the VA to act, with all deliberate speed, to ensure that remanded claims are properly decided, not on a full review of the entire claim, but only on the narrow issues for which the claim was remanded. PVA believes that the full text of selected Court opinions should be routinely provided to Regional Office adjudication personnel, and that these personnel should have direct access to all reported Court decisions. While the education process at the Regional Office has begun, it is still substandard, and must be improved, if the Department hopes to achieve substantial compliance with decisions of the Court.

There does not appear to be a single authority within the VA responsible for fully implementing Court decisions. Some decisions must be implemented by the Benefits Administration, others by the Health Administration which controls examining physicians, others by the Board of Veterans' Appeals. Establishment of a person with clear authority to direct compliance with Court decisions should be considered.

There must be accountability; the buck must come to rest somewhere. It should no longer be necessary to use the appeals process to compel the performance of legally required duties. It should only be necessary to use the appeals process for what it was intended for: to protect the due process rights of the veteran. PVA realizes that to change the practices and culture of a large organization takes time, and we stand ready to assist in any way we can, but change it must.

PVA is still awaiting the confirmation of the vaunted claims of efficiency and effectiveness that would supposedly arise from the institution of single-member boards at the Board of Veterans' Appeals. Now that the BVA is permitted to issue single-member decisions, PVA no longer sees the need for a collegial, centrally located "board." In effect, the law has created individuals who will judge the work of the Regional Offices. Given this situation, accountability can be improved by placing the Board members in the Regions with some sort of centralized control by the Chairman. A further benefit to this structure would be the availability of the Board Members for the training, both formal and informal, of the Regional Office personnel. We strongly recommend that Congress establish a pilot program, or provide the VA with the authority, to test this concept.

The time for studies and commissions is over, the time for results is now. Frankly, we have lost track of the number of studies and commissions instituted to find solutions to the awful problem of claims backlog. We are certain in our belief that yet another study is not the solution. We would commend to this Subcommittee the appropriate section of the *Independent Budget* for a more complete recommendation on the solutions that have been offered by the veterans community. PVA would like to leave you with a few thoughts on what can be done immediately in attempting to ameliorate these delays. First, it is essential that experienced people do the initial claim development at the Regional Office level. Far too much time is spent remanding claims back for proper claim development. Secretary Brown, in a recent letter to Senator Mikulski, has stated that "the development and decision-making processes involved in original claims are the most time-consuming and complex of all the various types of claims we process..." If a veteran's claim was developed properly the first time, think of how much more efficient the entire system would be. Second, there must be credit for proper claim development, and accountability when these duties are performed in a substandard fashion time and time again. Far too many claims are remanded because of slipshod work at the Regional Office level. Credit should arise when individuals consistently and correctly do the work the first time. Credit for merely shuffling papers should be abolished.

Finally, PVA believes that quality and fairness begins at the Regional Office level. In fact, as we have testified, we believe that the solution to the problem of inordinate delays can be found at the Regional Offices. Quality and fairness must not be sacrificed on the altar of speed and efficiency. It is vital that claims be developed and judged fairly and fully from the start. This is the true key to unlocking the problem of inordinate delays and massive backlogs. As the old saying goes, if something is worth doing, "it is worth doing right."

Thank you, Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions that you may have.



Non Commissioned Officers Association of the United States of America

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STATEMENT OF

LARRY D. RHEA

DEPUTY DIRECTOR OF LEGISLATIVE AFFAIRS

BEFORE THE

SUBCOMMITTEE ON

COMPENSATION, PENSION, INSURANCE
AND MEMORIAL AFFAIRS

COMMITTEE ON VETERANS AFFAIRS

U. S. HOUSE OF REPRESENTATIVES

ON

VETERANS CLAIMS PROCESSING

MAY 12, 1995

Good morning Mr. Chairman and distinguished members of the Subcommittee. The Non Commissioned Officers Association of the USA (NCOA) welcomes this opportunity to appear and present to the Subcommittee the Association's thoughts on veterans claims processing at the Veterans Benefits Administration (VBA).

Mr. Chairman, the two veteran issues of paramount concern to NCOA members are (1) health care and (2) the entire procedure associated with claims processing, adjudication and appeal. Since the topic of today's hearing ranks in such importance with the Association's members, NCOA congratulates the distinguished Chairman for holding this hearing and considers it suitable and timely to do so. The Association is hopeful that our comments will prove useful to the Subcommittee as you review the VBA's progress in this extremely important area.

A GLANCE BACK

Mr. Chairman, NCOA made several appearances before Congress last year to discuss veterans claims processing. During those hearings and discussions, even the most optimistic outlook for the VBA did not give veterans cause to celebrate. Our discussions last year focused on the disaster at hand (more than half a million Compensation, Pension and Education claims pending) and the impending catastrophe (nearly a million claims awaiting an initial decision) projected by the end of 1995. A backlog of over 40,000 cases confronted the Board of Veterans Appeal. During last year's hearings, NCOA advocated procedural changes to the process that had caused claims processing, adjudication and appeal to reach a point where the time to fully resolve a case was and continues to be measured in years.

Thanks to the Members of the House Veterans Affairs Committee, indeed the full Congress, NCOA's efforts last year, and for several years preceding, were not in vain. NCOA is deeply grateful for passage of the Veterans Benefits Act of 1994 that was enacted during the 2nd Session of the 103rd Congress.

In addition to dealing with several critical areas confronting the Board of Veterans Appeal, the Veterans Benefits Act of 1994 also required the Secretary of Veterans Affairs to establish the Veterans' Claims Adjudication Commission. The nine-member panel created by the 1994 Act is tasked by law with determining the efficiency of the current system for the adjudication, resolution, review and final disposition of claims. The panel is also charged with recommending ways to increase the system's efficiency. NCOA is proud to have supported last year's legislation. The Association is confident that the Commission will greatly assist DVA's efforts to improve the timeliness and accuracy in resolving veteran claims.

WHERE WE ARE

NCOA considers it too early to evaluate the effect of the legislation passed last year; nonetheless, the Association is encouraged by the progress that the VBA has achieved during this past year. Secretary Brown and Under Secretary for Benefits Vogel are to be commended for their substantial effort and for the progress they have made to reduce the backlog and average time it takes to resolve a veterans benefits claim to a reasonable and acceptable level.

Secretary Brown reported that the backlog of 575,000 claims in December 1993 had been reduced to 470,000 at the end of September 1994. That same report indicated that the average time to process a claim had been shortened in every category. While progress has and continues to be made, the problem is still with us. These statistics provide no comfort or reassurance though if you are one of the veterans among the 470,000 who is still waiting an average of nearly 170 days for an initial decision on an original compensation claim.

As the VBA continues to implement the recommendations of the blue ribbon panel to resolve claims processing problems, NCOA anticipates further positive results. Secretary Brown has been unrelenting in his pursuit of the employee performance standards he established to improve the timeliness of processing veterans' claims. Also, as the Veterans Claims Adjudication Commission established last year, and recently implemented by DVA,

pursues its work, additional recommendations for improvement should be forthcoming.

In NCOA's opinion, the DVA appears headed in the right direction toward achieving both its interim and long term goals for the VBA and veterans. Honesty and fairness requires that we keep in mind that the monumental problem that VBA is confronting did not occur overnight. Likewise, the dilemma won't be resolved in a day's time. Secretary Brown and Under Secretary Vogel deserve no less than the full support of this Subcommittee, the full Veterans Affairs Committee and veteran service organizations as they continue to aggressively address the veterans claims process through their modernization, training and re-engineering initiatives.

WHERE WE SHOULD GO FROM HERE

NCOA believes that the best approach at this time would simply be to let Messrs. Brown and Vogel continue with the implementation of the initiatives they are pursuing and which have the support of NCOA and other veteran service organizations. NCOA looks forward to reviewing and analyzing the findings, conclusions and recommendations of the Veterans Claims Adjudication Commission. If during the Commission's work or in its final report it is revealed that further enabling legislation is required, NCOA would urge this Subcommittee to respond accordingly.

That having been said, NCOA wants to be clear with its message to the distinguished Chairman and members of the Subcommittee. While the Association is pleased with the measured progress that has been made and with the resolute determination of Secretary Brown and Under Secretary Vogel, NCOA is not implying that we do not have concerns nor is the Association suggesting that the Subcommittee fulfill its oversight responsibilities at idle speed. In NCOA's view, two areas of principal importance that are crucial to the mutually supported objectives of the VBA will require the continued attention and vigilance of Subcommittee members.

NCOA's first concern and an absolutely critical issue in this entire process has been and will continue to remain that of sufficient full-time employees. Funding for the VBA is increased by \$22 million to a total of \$820 million in the President's FY96 Budget. The FY95 full-time employee level of 13,220 for the VBA decreases in the FY96 Budget by 188 employees to 13,032 full-time positions. The FY95 Appropriations for DVA specifically addressed the staffing needs of VBA to help resolve the backlog of cases in VA regional offices. NCOA sincerely hopes that the resolve demonstrated by Congress last year was not a one-time gesture. If Congress is seriously committed to solving this problem confronting VA and veterans, the action taken last year must necessarily extend for several years. NCOA requests that the Subcommittee be particularly mindful of this crucial area in FY96 and the years beyond.

As earlier indicated, health care and the claims process are NCOA's top two legislative priorities for veterans. Hence, the FY96 Budget is a competing dilemma for this Association. On the one hand, NCOA is grateful that the budget proposal recommends staffing for the Veterans Health Administration in FY96 at a level of 201,254 employees, an increase of 267 positions for health care. On the other hand though, NCOA is dismayed that the full-time employee level of VBA is projected to drop by 188 positions in FY96. Precisely at a time when veterans are starting to see the first signs of progress in the claims debacle, NCOA believes that the reduction of 188 positions in VBA could very well "snatch defeat from the jaws of potential victory." The budget proposal is a trade-off between VHA and VBA that veterans should not be asked to endorse.

NCOA supports fully the recommendation on employee levels for the VBA offered in the Independent Budget for Veterans Affairs for Fiscal Year 1996 of which NCOA is an endorser. In this regard, NCOA requests that the Subcommittee members be particularly mindful of the following paragraph quoted from the Independent Budget:

"Staffing levels must be determined by actual workload and not be tailored to a predetermined arbitrary budget target. Mandatory spending accounts should fund

appropriations for administering veterans' benefits. Adequate funding will allow the Veterans Benefits Administration to recruit and retain a sufficient number of well-trained employees to ensure timely claims adjudication by creating a rational system of measures that establishes a work force mindful of and in concert with established workloads. In short, VA should realistically assess its employment needs based on reasonable timeliness standards, and Congress should authorize the required staffing levels."

The second area that NCOA believes needs the attention of Subcommittee members deals with technology modernization. Clearly, VA has done much to update its automated data processing systems. Equally clear is the fact that much remains to be done as evidenced by VBA's modernization plan. It is a credit to the DVA that much of the modernization program is being undertaken within the Department itself. The danger in this approach is that there is no commitment by Congress for future discretionary money for this effort. The success of VBA's technology modernization efforts, and hence the future viability of the entire claims process, depends on a solid commitment by Congress to fully meet the Department's funding needs in this area. NCOA urges the Subcommittee to fully support VBA's technology modernization plan with a concomitant commitment to its funding requirements.

CONCLUSION

NCOA wishes to conclude its testimony by again thanking the Chairman for eliciting the views of non-commissioned and petty officers on this important subject. Likewise, the Association appreciates the Subcommittee's consideration of our thoughts. NCOA looks forward to continuing to work with the DVA and Subcommittee members to ensure the accurate and timely delivery of earned benefits to veterans.

Thank you.

STATEMENT OF PHILIP R. WILKERSON, DEPUTY DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION,
INSURANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
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Mr. Chairman and Members of the Subcommittee, The American Legion appreciates the opportunity to comment on the current operation of the Veterans Benefits Administration (VBA).

Before proceeding with our testimony, we wish to commend you, Mr. Chairman, for scheduling this hearing today to examine the problems affecting VA's benefit delivery system and the current status of initiatives intended to improve the quality and timeliness of claims processing.

There are a number of factors which directly affect the workload at the 58 VA regional offices. They include staffing, the continued down sizing of the Armed Forces and the success of the TAP and DTAP programs, new benefit legislation, the continued high remand rate by the Board of Veterans Appeals (BVA), precedent decisions of the Court of Veterans Appeals (CVA), and progress in the implementation of a variety of organizational, programmatic, and ADP changes.

Staffing in the Compensation, Pension, and Education Service (CP&E) for the current fiscal year is 4,558 FTE. No increase has been requested for FY 1996. VBA indicates that existing staffing resources will be supplemented by the continued use of overtime as part of the overall effort to reduce the backlog of pending claims and provide more timely service. We note that in the last quarter of FY 1994, a concerted effort was made to complete work on the oldest claims through the extensive use of overtime. This helped reduce the overall backlog by about 65,000 cases. While recognizing that overtime is an essential management tool, the continued reliance on overtime is no real solution to achieving long-term, improved production.

As a result of the TAP and DTAP programs, veterans being discharged from service are more informed about their entitlement to benefits which is resulting in greater numbers of claims being filed. Concern among veterans exposed to radiation, Agent Orange, and mustard gas, as well as Persian Gulf veterans, is also expected to increase the number of new and reopened claims. Not only are more claims being filed, but they are increasingly more medically and legally complex and involve multiple issues. As a result, they are more time-consuming to develop and adjudicate. VA now records statistical data on original compensation claims with less than seven claimed disabilities and those with over seven disabilities.

In terms of new benefit legislation, additional workload has resulted from PL 103-446 which provides compensation to Persian Gulf War veterans for undiagnosed illnesses. Although the volume of Persian Gulf claims to date has been relatively small in comparison to the number of individuals who served in the Persian Gulf War, we believe the number will continue to grow. In addition, we have a number of concerns with regard to the way these claims are currently being adjudicated which are discussed later in our statement.

Decisions rendered by the Board of Veterans Appeals continue to add to the regional office workload. As of the end of the second quarter of FY 1995, BVA had allowed 2,652 cases (18.7%) and remanded 7,000 (49.4%). Most of these cases will require further development and adjudication. The number of appeals filed is also expected to increase in FY 1995. Within the last year, BVA has made a number of organizational and other changes which should enable it to increase production by about 6,000 cases to 28,000 in FY 1995 and to about 33,000 in FY 1996. The percentage of allowances and remands is projected to remain at current levels.

Regional office workload and processing times continue to be adversely affected by frequent changes in adjudication procedures and regulations necessitated by precedent decisions of the Court of

Veterans Appeals. In addition, in December 1994, the Supreme Court ruled invalid VA's longstanding interpretation of 38 USC 1151 which authorizes compensation for injury or death due to VA medical care. Over 8,000 Gardner-related cases which had been on hold since 1991 are now having to be worked. The liberalization of the requirements for benefits under section 1151 will undoubtedly result in more claims of this type being filed. It will also take time for adjudication staff to learn to correctly apply the new criteria. The Vocational Rehabilitation and Counseling Service must now implement the March 1995 decision by the Court of Veterans Appeals in Davenport v. Brown which will make it easier for disabled veterans to receive vocational rehabilitation. The caseload in all phases of the Voc Rehab program is already staggering and staffing resources continue to be limited. The lack of timeliness is a major problem which is hurting many disabled veterans who are entitled to and need assistance in finding suitable employment.

Within the past two years, VBA has begun implementing a wide variety of organizational, administrative, and procedural changes intended to streamline and improve the efficiency and quality of regional office claims processing. Many of these have been based on the recommendations of the Secretary's Blue Ribbon Panel on Claims Adjudication. The last report updating the status of their implementation was in October 1994. At that time VBA indicated substantial progress on implementing all of the recommendations. These ongoing initiatives have been accompanied by the installation of new computer hardware and software under Stage I of VBA's long-term computer modernization program. Proficiency in using the new systems and technology will, of necessity, take time and training.

Mr. Chairman, The American Legion has repeatedly expressed concern about delays in VBA's computer modernization program. Past efforts to develop and implement a comprehensive modernization plan have been plagued by poor planning and organization, delays, and waste. VBA's current 3 stage modernization plan, according to a GAO report in December 1993, appeared to have overcome previous problems and was headed in the right direction. Stage I which includes the installation of new PC's in the regional offices and a variety of new systems and programs has been implemented.

VBA's modernization program was the subject of an article in Government Computer News, dated April 19, 1995. It now seems that the General Services Administration (GSA) has had some concerns with regard to VBA's ambitious timetable for Stage II of the computer modernization program, in view of an apparent lack of improvement in claims processing associated with Stage I initiatives. A recent GSA-sponsored independent study concluded that "VBA is now trying to accommodate a rate of change that its operational management infrastructure cannot handle effectively." As a result, VBA is re-examining its Stage II projects.

Mr. Chairman, we believe there is little disagreement about the pressing need to modernize VA's computer equipment and replace the outdated TARGET system as soon as possible. We are similarly concerned that the pace of modernization may indeed be too rapid for the regional offices to effectively assimilate, in light of all of the other workload factors they must deal with on a daily basis. We would like to see VBA undertake a full assessment of Stage I and compare performance with expected goals, in order to make any changes or corrections necessary, before committing to the purchase of the equipment and technology under Stage II.

In looking at VA data for FY 1994 and the first two quarters of FY 1995, the regional offices have been able to make a significant reduction in the backlog of pending claims and improve processing times. This is encouraging. However, I cannot say we are satisfied by any means with the amount of time currently required to adjudicate compensation and pension cases. Processing times must continue to improve. Our bottom line concern is that veterans and their families must still wait far too long for needed financial assistance.

Original compensation claims make up the most significant part of the adjudication workload. In FY 1994, according to VBA data, it was taking 213 days to process a claim for service connection. At the end of the first quarter of FY 1995, the processing time was 170 days and

at the end of the second quarter of FY 1995, it was reported to be 165 days. The regional offices are still a long way from reaching the standard for measuring performance of 106 days.

In FY 1994, VBA reported over 3.5 million claims actions. For FY 1995, however, VBA estimates that approximately 2.7 million claims actions will be made with a further reduction in the backlog of pending claims and improved processing times.

With respect to the adjudication of claims by Persian Gulf War veterans under PL 103-446, the "Veterans' Benefits Improvement Act of 1994", this legislation was enacted on November 2, 1994 and the implementing regulation, 38 CFR 3.317 was published in the Federal Register in December 1994. VBA Circular 21-95-2, dated February 1, 1995 was issued providing additional criteria and instructions concerning the development and adjudication of Persian Gulf claims. The processing of new and the readjudication of previously denied Gulf War claims has been regionalized at four regional offices - Louisville, Philadelphia, Nashville and Phoenix.

Mr. Chairman, since this law has only been in effect for about six months, it may be too soon to make any definitive judgements concerning the efficacy of this legislation. However, from a preliminary review of a number of decisions on Persian Gulf claims, The American Legion has a number of concerns which we hope this Subcommittee will address.

At the time this law went into effect, the Louisville VARO had sole jurisdiction over all Persian Gulf environmental hazard claims. VA reports approximately 5,043 claims for service connection from Persian Gulf War veterans had been filed. Service connection was granted in 457 cases and 2,336 were denied. This action was based on whether or not there was evidence of symptoms of or treatment for the condition diagnosed in the service medical records (SMRs) or within the 12 month presumptive period following discharge from service or release from active duty. According to VA, the main reasons for denial in these claims were that the claimed condition was not manifest in service or within one year of discharge or release from active duty, or that no specific disability resulting from exposure to an environmental hazard was claimed, or that the condition claimed was acute and transitory without residual disability.

The American Legion was very concerned by the small percentage of claims being allowed. It was apparent that the law and regulations in effect were not adequate to the needs of this particular group of veterans, since most all who had filed claims were still suffering from various, unexplained medical problems. We were, therefore, very supportive of the legislative effort to provide a mechanism by which compensation could be paid for disabilities associated with service in the Persian Gulf War despite the absence of an identifiable cause or causes.

Congress, in PL 103-446, recognized the fact that there are still many unanswered questions about what actually happened during the Gulf War and what caused so many veterans who served in the Persian Gulf region to become sick. Rather than forcing these veterans and their families, many of whom are also sick, to wait years for scientific answers to their problems, this legislation authorized the granting of service connection for the chronic symptoms of an undiagnosed illness or illnesses which became manifest within two years of the last date of service in the Persian Gulf. 38 CFR 3.317 set forth a list of qualifying illness categories. It also provided that service connection could be denied if it could be affirmatively shown that a claimed condition was unrelated to service in the Persian Gulf War or was due to some intercurrent cause.

Since November 1994, VA reports that the 2,086 Persian Gulf environmental hazard claims previously pending at Louisville have been distributed to the regional processing centers. As of the end of the second quarter of FY 1995, action has been completed on a total of 4,157 cases. Of these 489 have been allowed and 3,668 denied. There are 2,879 pending at the regional processing centers and another 2,735 pending at the regional offices for development. We are particularly concerned by the fact that in rating claims of undiagnosed illnesses,

of a total of 1,905 cases, service connection has been granted in only 97.

In addition to this data, we reviewed rating decisions recently made by the Philadelphia VARO in 24 American Legion cases to try and get a clearer understanding of why so few veterans were being granted service connection. The following are some examples of the rationale which has been used to deny the claims of Persian Gulf War veterans:

* "Service medical records negative for complaint, treatment or finding of intestinal problems in service. At separation the veteran reported frequent indigestion and gastritis. No signs or findings on VAX 6/10/94. Service connection may be established for a disability resulting from an undiagnosed illness which became manifest either during active service in the Southwest Asia theater of operations during the Persian Gulf War, or to a degree of 10 percent or more, not later than two years after the last date of service in the Southwest Asia theater of operations during the Persian Gulf War. The veteran served in the Persian Gulf War for the period 1/17/91 - 4/18/91. Service connection for intestinal problems is denied since this disability neither arose during service in the Persian Gulf theater, nor was it manifested to a compensable degree within two years after the last date of such service."

* "Service medical records are negative for any complaint of forgetfulness or trouble concentrating. Current VAX diagnoses anxiety disorder and possible organic brain syndrome. (Standard citation regarding Persian Gulf service was included.) It notes the veteran had Persian Gulf War service 1/17/91 - 4/18/91. Service connection for forgetfulness or trouble concentrating is denied because this disability is determined to result from a known clinical diagnosis of anxiety disorder or organic brain syndrome which was neither occurred in nor aggravated by service."

* "Examination on separation from service indicated complaint of frequent flu/bronchitis type cold and shortness of breath. SMRs negative. VAX noted history of shortness of breath and cough. Findings were within normal limits and no problems noted. Service connection on a direct basis is not established for cold symptoms. Furthermore, service connection for cold symptoms due to an undiagnosed illness is denied since this disability neither arose during service in the Persian Gulf Theater nor was it manifest to a compensable degree within 2 years after the last date of Persian Gulf service."

* "Examination on separation from service noted complaint of stomach cramps with diarrhea. Physical exam negative with a weight of 172 pounds. SMRs negative. VAX noted history of chronic diarrhea. Weight recorded as 197 pounds. Digestive system normal and no problems noted. Service connection on a direct basis is not established for diarrhea. This condition was not found in service. Furthermore, service connection for diarrhea is denied since this disability neither arose during Persian Gulf War service or within 2 years of last date of such service."

Mr. Chairman, Persian Gulf veterans receive a copy of the Rating Decision form which includes reasons and bases for the action on all of the issues in the claim. However, in our opinion, the explanations provided leave a great deal to be desired in terms of giving the veteran useful information in order to understand why the claim was denied, why the evidence submitted was deficient, and what will be needed to obtain favorable action. The veteran must try and figure out VA's "legalese" and decide what course of action to pursue - get additional evidence, file an appeal, or do nothing.

We found that, although the cited cases were adjudicated under the new law, they had been filed in late 1993 or 1994, prior to the passage of PL 103-446. The information and evidence submitted in support of claims at that time would have been based on the veteran's understanding of his or her condition and the law and regulations in effect then. The evidentiary and legal requirements, under the new

legislation, are more liberal, in one sense, than those which were in effect at the time the claim was originally filed. However, the new law and regulation also include very specific and stringent requirements.

Gulf War veterans must now prove the following:

- * the existence of an undiagnosed rather than a diagnosed illness;
- * that the condition is chronic, i.e. existed for six months or more;
- * the claimed undiagnosed illness was first evidenced in service or first manifest to a compensable degree within the two year time limit.

Moreover, if a diagnosis is assigned for any particular symptom or symptoms, the claim can be denied on the basis that a cause has been identified for the complaint or complaints. The claim would then have to meet the traditional requirements of evidence of service incurrence or aggravation, or onset within 12 months of discharge from service or release from active duty.

From the manner in which Persian Gulf claims are being disposed of, we believe it is basically unfair to apply the new standards of PL 103-446 to claims filed prior to this legislation without giving the veteran an opportunity to more adequately prepare his or her claim. We further believe that most of these cases meet the criteria of a "well grounded claim" and, as such, VA has a statutory "duty to assist" the veteran in developing appropriate evidence. Such assistance should include fairly specific advice as well as examples concerning the type of evidence required, such as statements from individuals and other information in order to establish the presence of the symptoms within the 2 year presumptive period and chronicity. We recommend that veterans whose claims were received by VA prior to enactment of PL 103-446 be contacted and advised as to what additional evidence should be submitted.

The denial of those claims filed prior to PL 103-446 also raises another legal issue which would be the loss of the original date of claim based on the submission of new evidence to "reopen" the case. We believe VBA must find a way to ensure that Persian Gulf veterans' claims are properly developed in a manner which is consistent with the letter and intent of the law.

In closing, Mr. Chairman, we applaud the fact that VBA has made considerable progress in the last year toward reducing the backlog of pending claims and overall processing times. Even so, it is still taking far too long for VA to properly develop and adjudicate benefit claims, most notably those involving the issue of service connection. Continued progress toward improving its overall operations is essential. However, we remain concerned that any improvements in the claims process not come at the expense of quality.

Mr. Chairman, that completes our statement.

STATEMENT OF
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UNDER SECRETARY FOR BENEFITS
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION,
INSURANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES
MAY 12, 1995

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the processing of compensation claims by the Veterans Benefits Administration (VBA).

In February of last year I appeared before this Subcommittee with a rather gloomy report. At that time, it was taking 215 days to process an original compensation claim. We were estimating that it would take 226 days by the end of FY 1994, and 235 days by the end of 1995. Our pending workload stood at 531,000 cases by the end of FY 1993. At the time of my testimony, the workload was 536,000 cases. We were anticipating a pending workload of 710,000 by the end of FY 1994, and 870,000 by the end of FY 1995.

The deterioration in benefits delivery services had been due to a number of overlapping factors. Downsizing of the military, coupled with our own outreach efforts, resulted in a greater number of compensation claims from recently discharged veterans and a greater number of issues per claim. The complexity of claims was affected by changes in due process requirements, the claimant notification requirements of Public Law 101-237, and decisions of the Court of Veterans Appeals. These last three factors combined to result in more detailed and thorough decision notices, requiring a greater expenditure of time than in years past. Precedential decisions of the Court also had the effect of increasing the number of remands from the Board of Veterans Appeals back to the regional offices, with the result that both action on other pending claims and final decisions on appeals were often significantly delayed.

Although the impact of the factors just mentioned cannot be discounted today, I am, nonetheless, able to tell you that, instead of an expected worsening in the areas of timeliness and workload, we are seeing significant improvements in both areas. As of the end of March of this year, the pending workload was 451,000 claims. We believe this number will be around 400,000 by the end of FY 1995, and possibly as low as 300,000 at the end of FY 1996. The amount of time it takes to process original compensation claims currently stands at 166 days. On the basis of current projections, we believe that this figure will be reduced to 106 days or less by the end of FY 1998. As a comparison, our projection for original pension claims, which now take 104 days to process, is 88 days or less by the end of FY 1998.

The current improvements in the areas of workload and timeliness can be attributed to the combined effect of many VBA management and technological initiatives, that have played, and will continue to play, a significant role. In particular, I have spoken to this Committee on several occasions of the important recommendations emanating from our Blue Ribbon Panel on Claims Processing. Over the last year and a half, we have worked at implementing their recommendations and are now nearing completion of that effort. Let me briefly discuss some of our initiatives.

RESOURCES SHARING

We have expanded the concept of resources sharing as a means of assisting stations with high backlogs of workload. Offices with critical backlogs in ratings were identified. Offices that were able to share some of their rating resources were then assigned to assist the offices with critical backlogs, either in the form of help teams or through a transfer of rating cases.

CONSOLIDATION OF EDUCATION CLAIMS

We are currently in the process of consolidating education-claim processing into four sites, in order to improve timeliness of benefits delivery and operational efficiency. As of the end of 1994, 22 regional offices had transferred their education-claim cases to the four sites, and by the end of calendar year 1995, it is expected that all stations will have transferred their claims to these stations.

SERVICE MEDICAL RECORDS CENTER

We now have agreements with the military departments of the Department of Defense whereby they send the service medical records of recent discharges to VA's Service Medical Records Center in St. Louis. The Center, in turn, forwards these records to the regional office of jurisdiction if the veteran has filed a claim, or stores the records until such time as a claim is filed. This procedure significantly expedites processing of disability claims.

MEDICAL EVIDENCE

We have implemented several initiatives to reduce the delays in obtaining the medical information needed to process disability claims. The "Physician's Guide to Disability Evaluation Examinations" has been updated, modernized, and made available to examining physicians in computerized version for easy access. For psychiatric examinations, we may now, in many cases, accept examinations performed by clinical psychologists. Previous guidelines dictated that only examinations by psychiatrists would be accepted, ignoring the important roles played by clinical psychologists.

The important role of nurse practitioners has also been recognized. Examinations conducted by nurse practitioners may be accepted for rating purposes if signed by a physician who also concurs in the diagnoses and clinical findings.

Under a memorandum of understanding (MOU) between VBA and VHA, VA medical facilities have made a concerted effort to process C&P examinations in a timely manner. In response to concerns over the quality of the examinations, a recent amendment to the MOU added a specific quality element to reinforce the original intent of the timeliness requirement.

A regulation change in mid-1994 increased the number of situations in which our rating boards could accept private physicians' statements for rating purposes. However, in original compensation claims, a VA examination was still required. By enacting section 301(b) of Public Law 103-446, Congress prompted us to rethink that policy. A proposed amendment to our regulations, now under Departmental review, would permit rating boards to accept private physicians' reports in all types of claims without need for confirmation through a VA examination. The reduction in examination requests resulting from these two regulatory amendments will allow VA medical facilities to handle the remaining requests more expeditiously. We also will see improved timeliness in claims where private physicians' statements are acceptable for rating purposes.

RATING BOARD INITIATIVES

The most technical aspects of claims processing are handled by the rating boards. Rating specialists routinely review medical evidence to decide service connection for disability or death and the degree of impairment caused by disabilities. Their decisions lie at the very heart of

the compensation and pension programs and, therefore, have received close scrutiny by the Court of Veterans Appeals. The decisions of the Court have had a tremendous impact on rating activities. They have expanded the amount of evidence required to be reviewed. They also require rating specialists to write decisions in a more detailed and explicit manner. This has benefitted our claimants but also has increased the workload and decreased the productivity of our rating boards. We have taken steps to address this fact.

We have redirected resources to the rating boards. The number of rating specialists nationwide increased from 530 in September 1992 to 775 as of December 1994. Because two years are required for a rating specialist to become fully trained, the benefit of the shift did not begin to be felt until late 1994. Improvement will continue as the rating specialists gain even more experience.

We have encouraged establishment of positions at the regional offices to support rating board activities. Several regional offices now employ rating technicians or rating analysts to assist in the initial review of claims and development of evidence. In this way rating specialists may concentrate on cases ready to rate or involving more complex issues.

Many regional offices had adopted a computer application known as WARS (Word Assisted Rating System) developed by the New Orleans and Atlanta Regional Offices. This system allowed rating specialists to use word processing technology to prepare their own rating decisions, thereby eliminating the need for dictation and transcription. WARS

reduced the number of keystrokes necessary to complete a decision by using standardized glossary and macro routines to supply pre-formatted phrases and paragraphs -- in short, a word-processing package. In early 1995, we deployed nationwide a more advanced computer application, known as Rating Board Automation (RBA). Its sophisticated programming and large database make use of standardized phrases, sentences, and paragraphs. RBA permits preparation of a rating decision with only minimal keyboard use. This application will make rating decisions more consistent and easier to understand.

Traditionally, the majority of rating decisions have been prepared by one rating specialist and then reviewed and co-signed by two other rating specialists. After a period of testing and evaluation, we determined that most routine ratings can be promulgated as "single-signature" ratings without a loss of quality. This reduces the review and processing time required to promulgate a rating decision. Guidelines published in 1994 permit Adjudication Officers to authorize rating specialists with the requisite expertise to prepare one-signature rating decisions. Decisions involving complex issues still require review by two rating specialists.

Perhaps the most important initiative to ensure accuracy and consistency in rating decisions is the complete review and revision of the rating schedule currently being undertaken by the Compensation and Pension Service. To date we have published final revisions of sections dealing with three body systems: the genitourinary and dental/oral systems in January 1994, and the gynecological system on April 21 of

this year. We also have published proposed revisions for the sections covering 8 other body systems, the final revisions to which are now in various stages of preparation. The proposed revisions for 5 more body systems are also in various stages of preparation. Extensive training packages will support this effort as final regulations are published.

EVIDENCE AND DEVELOPMENT

In the last few months we have taken steps to ensure that all required evidence is requested as early in the claim-review process as possible. This can significantly reduce the time required to decide claims.

In January of this year, we began distributing to the regional offices development checklists for burial, compensation, pension, and DIC/death pension claims. Concerted use of these checklists will help identify all evidence needed and will assist supervisors as they review the status of long-pending claims.

In September 1994, we published an interim rule that eliminated the requirement for submission of certified copies of dependency documents in support of claims and allowed acceptance of photocopies. We also have recently submitted for Departmental review a final rule permitting acceptance in certain instances of a claimant's signed statement as proof of marriage, termination of marriage, birth of a child, and death. This rule is consistent with section 503 of Public Law

103-446, and we expect that it will have an even more favorable impact on timeliness.

OVERTIME

In May 1994, VBA began to use overtime to process C&P claims, with a concentration on rating claims over 6 months old. Our efforts were so successful that Congress earmarked \$10 million in our 1995 budget for reducing the backlog. We expect heavy overtime usage throughout this year.

TRAINING

Since February 1990, the Compensation and Pension Service has provided centralized training operations featuring courses that focus on a wide variety of topics, ranging from entry level courses to more advanced courses. Our advanced courses have targeted training in issues such as PTSD, radiation exposure, Agent Orange exposure, disabilities of former prisoners of war, and claims from Persian Gulf War veterans. By fostering a standardized, consistent interpretation of laws, regulations, and procedures, centralized training greatly assists in improving quality and timeliness. Centrally produced training packages exported to the regional offices also reduce the amount of time experienced adjudicators must devote to local training duties, thus allowing them to concentrate more on claims processing.

I would like to mention at this point additional factors whose influence in reducing the backlog and improving timeliness we are unable to determine at this time, but expect to be felt in the near future.

EVR WORKLOAD

The volume of incoming work will drop due to recent legislation (Public Law 103-271) giving VA discretionary authority to reduce the number of eligibility verification reports that claimants must file annually. In 1994, EVRs accounted for more than 15 percent of the workload (535,000 actions). We believe that, under the discretionary authority of the new legislation, and given the income verification matches with the IRS and the SSA, we can reduce the EVR volume by 65 percent, while maintaining program integrity. A regulation to implement this discretionary authority will be published soon.

MODERNIZATION

During 1993 and 1994, VA realized an important goal in its modernization program with the installation of stage I computer hardware at all regional offices. This equipment provides the foundation for future modernization efforts. We also inaugurated new computer software packages in late 1994 and early 1995. They will contribute to improved service through the preparation of better correspondence and more efficient use of our claims examiners' time.

The Personal Computer Generated Letters (PCGL) application allows adjudicators to draw on generic, pre-composed letters from a database and tailor them to the needs of an individual case. PCGL will eliminate most of the need for dictated and transcribed letters and will ensure that our correspondence is easier to read and understand.

VBA has begun replacing most of its printed manuals and directives with the automated reference materials system (ARMS). ARMS is a CD-Rom application that allows adjudicators easy access to VA laws, regulations, and directives. The system can be quickly updated to reflect changes resulting from legislation, court decisions, or revised regulations and procedures. This system is also available to veterans service organizations, our partners in service to veterans.

REENGINEERING

During the last two years VBA has been reviewing a number of ideas to redesign the functions and organization of the adjudication and veterans services divisions in our regional offices. Initiatives of this kind are already under way in Jackson, Muskogee, New York, Oakland, and Portland. Last November, we issued a letter to all regional offices outlining four organizational models for realignment of adjudication and veterans services activities. We asked them to review these models and select the approach that each would adopt. In January, each office then submitted its plan for implementation.

The organizational models offered two basic approaches: either team-based processing of claims or a functional alignment, which is defined by whether rating action is required to complete a claim. Each of these approaches has two structural alternatives. One is a blending of the adjudication and veterans services activities into one organizational unit. The other maintains the separate identities of the two divisions. These reengineering initiatives will not appeal to those who believe that doing business the same old way is satisfactory. However, we must adopt a more sophisticated and user-friendly approach to claims processing, which is nothing more or less than what our veterans deserve.

The timeliness goals for 1998, which I mentioned earlier, are very ambitious, particularly in light of the complexity of the actions we must undertake to fulfill our responsibility to assist veterans in developing their claims and to ensure proper application of what is now an often changing body of law. However, we believe that these goals are attainable through full implementation of our modernization, reengineering, and training initiatives, and through enhancing the skills of our claims processing workforce.

IMPACT OF PUBLIC LAW 103-446

As you requested, I would now like to discuss the provisions of Public Law 103-446 that affect compensation and pension programs.

Section 106 of the statute authorizes VA to compensate Persian Gulf veterans for chronic disabilities resulting from undiagnosed illnesses. Even before enactment of Public Law 103-446, which the President signed November 2, 1994, the Secretary, who placed the highest importance on this issue and strongly supported enabling legislation, had formed a Departmental working group to begin drafting a regulation to implement the anticipated provisions of the law. Thanks to the intensive efforts of that group, we published the proposed regulation on December 8, 1994. Following expiration of a 30-day public review and comment period on January 9, 1995, the Secretary approved the final regulation on January 25, and it was published in the Federal Register on February 3, 1995, three months after Public Law 103-446 was signed.

At the same time as the regulation was being drafted, we worked on instructions to our regional offices concerning adjudication of claims under the new regulation. The instructions were ready by February 1 and disseminated to all regional offices as soon as the final regulation was published. Actual adjudication of Persian Gulf claims based on undiagnosed illnesses has been centralized at four regional offices, one in each of the four VBA administrative areas. These Area Processing Offices (APOs) are Philadelphia, Louisville, Nashville, and Phoenix. These offices had previously been designated as the offices having adjudicative jurisdiction over Persian Gulf compensation claims involving exposure to environmental hazards. The Compensation and Pension Service provided representatives from the four APOs with training on the new regulation at VA Central Office on February 2 and 3.

The first task assigned to the APOs was to review previously denied Persian Gulf compensation claims based on environmental hazards for possible entitlement under Public Law 103-446. As of the end of April the APOs had completed reviews of 1,905 cases and granted compensation for disabilities related to undiagnosed illnesses to 97 veterans.

Obviously, the number of grants is quite small, approximately 5 percent of the total claims reviewed. This apparently low grant rate needs to be put in context. Most of these claims were previously denied because there was no evidence of disability either anywhere in the record or upon physical examination by VA. Because we previously lacked the ability to pay for undiagnosed conditions, we are reviewing these cases again to distinguish between those cases in which denials were made because the evidence did not demonstrate the presence of a disability and those in which denials were due to the lack of diagnosed conditions to account for the claimed disabilities. Moreover, since we are still in the early stages of our review, with many claims pending in various stages of development or consideration, we can reasonably expect to see more claims allowed in the future. Nonetheless, in an effort to curtail potential problems and ensure that Persian Gulf veterans receive all benefits intended by law, the Compensation and Pension Service has been reviewing a sample of disallowances from each APO. They have not yet fully completed and analyzed the results of that review, but they will address any areas in which a need for change or improvement is indicated.

Section 111 of Public Law 103-446 authorized surviving spouses in receipt of dependency and indemnity compensation to elect pension benefits. This measure remedied an inequity in the law. Under 38 U.S.C. 5503(f), surviving spouses who are in receipt of nonservice-connected pension and are patients in nursing homes under a Medicaid plan must be permitted to retain \$90.00 of their monthly pension entitlement while patients in those nursing homes. This same benefit had not been afforded surviving spouses receiving DIC, who had to turn over their whole DIC entitlement to the nursing home. Inasmuch as they now may elect nonservice-connected pension, those who do may retain \$90 per month under the statute.

Section 301(a) of Public Law 103-446 provides that VA may accept a claimant's written statement as proof of marriage, dissolution of a marriage, birth of a child, and death. Section 301(b) provides for acceptance of a private physician's report for rating purposes without further confirmation through a VA examination. These provisions have been mentioned in more detail in an earlier portion of my statement.

Section 302 of this new law mandated that VA expedite all actions necessary to complete a claim remanded by the Board of Veterans' Appeals or the U. S. Court of Veterans Appeals. We have, in fact, repeatedly stressed this to the regional offices and in our adjudication procedures manual on the necessity of handling remands from the Board and the Court on a priority basis. However, in order to reinforce and, where necessary, amend our earlier instructions, we issued an all-station

letter on February 16 of this year, once again emphasizing the priority to be given remanded claims.

Section 501(a) of Public Law 103-446 expands the statutory presumptions regarding diseases resulting from radiation exposure to cover veterans who were exposed during atmospheric testing by nations other than the United States. A final regulatory amendment to accomplish the intent of this provision is currently under Departmental review. Section 501(b), which clarifies Congressional intent in enacting the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Public Law 98-542, provides that veterans are not excluded from establishing service connection on a direct basis for conditions claimed to result from radiation exposure, even though VA has not recognized the conditions as radiogenic. The final rule to implement this provision was published February 21 of this year. We are unable to estimate the actual number of additional cases that we would see under these two provisions, but we believe that they will not contribute greatly to the caseload or benefit cost.

Section 503 of Public Law 103-446 added a provision to 38 U.S.C. 5306 dealing with renouncement. It provides that if an individual reopens his or her claim for pension or parents' dependency and indemnity compensation within one year after renouncing that benefit, benefits are to be payable as if the renouncement had not occurred. This means that all countable income must be computed from the date of renouncement. This provision has closed a loophole in the law, whereby

a claimant could use the mechanism of renouncement to avoid having income counted against pension eligibility.

Section 505 of Public Law 103-446 amended 38 U.S.C. 1116 by adding Hodgkin's disease, porphyria cutanea tarda, and certain respiratory cancers to the list of diseases presumed related to herbicide exposure. This section codified decisions we had previously made through regulation.

Section 506 exempted income from a Native Corporation under the Alaska Native Claims Settlement Act from computation as countable income for purposes of VA income-based programs. Section 507 removed the requirement that we pay benefits to Philippine veterans in pesos. Neither of these provisions will have an adverse impact on workload or timeliness.

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

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSES

Hearing on May 12, 1995

**"Claims Processing at the Veterans Benefits Administration,
Update on Processing of Persian Gulf War Claims,
and Effect of Public Law 103-446,
the Veterans' Benefits Improvements Act of 1994"**

**Follow-Up Questions for VA Regional Office Directors,
who testified at the hearing**

**from Honorable Lane Evans
Ranking Member, Subcommittee on Compensation, Pension
Insurance and Memorial Affairs**

1. Following a review of some of the innovative management initiatives being undertaken at various regional offices, the GAO recommended that VA develop an evaluation plan "to judge the relative merit of various initiatives or the circumstances under which they work best." Do you believe this recommendation makes sense?

Response -- Donald Ramsey, Director, VARO St. Louis, MO

Yes, but the evaluation plan must not be so rigid as to discourage initiative. Creativity and initiative do not originate in an atmosphere of judgment. Initiatives that are identified can and should be refined, and evaluated prior to implementation, but we must make sure we do not stifle the precious ideas that employees throughout the VA identify. We must recognize individuals and Regional Offices for their efforts. Sometimes these efforts will fail, but we cannot condemn these failures harshly or we will not continue to encourage people to reach outside of the norm to try to make truly innovative changes happen.

Response -- James Maye, Director, VARO Roanoke, VA

The GAO recommendation is correct in that managers must have empirical data to effectively evaluate any significant change in a business process. As for an evaluation plan, I believe there exists the basic ingredients necessary for a valid comparison. First, extensive data is available indicating past and current performance of every service and benefit VBA provides. Second, VBA has established specific goals for improvement in service delivery; third, individual Regional Offices have developed detailed plans as to their specific methods for achieving these service delivery goals allowing for maximum flexibility and creativity.

It is the responsibility of each Regional Office to document areas of "significant" improvement in order that information may be shared with other Regional Offices. Particular attention must be paid to the conditions in which such improvement was achieved for if said conditions are dissimilar then the results may also be dissimilar and undesirable.

My greatest concern about the GAO recommendation is that VBA may be required or may impose upon itself a "standardized" method of reinvention. If this were to occur, individual initiative and ingenuity would be stifled and it would soon become "business as usual." Let us show a little faith in our fellow man and trust they will make an honest effort to improve service to our veterans. Hold us individually accountable for our efforts.

Response -- Joseph Thompson, Director, VARO New York, NY

I think a comparative analysis would have value. However, I think there are factors which should be considered at the onset of such an effort:

- significant change takes time and can in fact, make things look worse in the short run. A clear knowledge of expected long-range outcomes and progress being made towards same is essential.

- traditional measures of performance look inward and usually measure only processes, not outcomes. Under the Government Performance and Results Act (GPRA) VBA is developing broader measures which in addition to traditional measures of timeliness and accuracy, also include customer satisfaction, employee development and unit cost. These new measures should be included in any comparative analysis.
- the degree of change undertaken by various Regional Offices varies considerably. This can affect the timetable for improvement and should be considered.
- each Regional Office has/had a different "starting point" (existing performance, workload mix, employee experience levels, etc.). There would be great value in comparing each office to itself over time, as well as to others.

Response -- Joseph C. Williams II, Director, VARO Portland OR

Yes, I definitely do. There are important differences in staffing, mix of employee expertise, economic climate and clientele from one Regional Office to the next. What works in one office may not work in another. Individual initiatives should be evaluated in the context of the environment where they are to be implemented. We believe that initiatives should be evaluated using parameters which are understood by all the interested parties and which allow direct comparison to a control group within the Veterans Benefits Administration. The number of parameters could be expanded if necessary.

Response -- Montgomery Watson, Director, VARO Chicago, IL

Most definitely I believe this makes sense. In our rapidly evolving environment new initiatives are continuously placed on-line. Experimentation has become an integral management tool within VA as we break with traditional methods of operation. While the initiatives are targeted toward better customer service and greater efficiencies, before implementing substantive changes we must be certain they will lead to permanent improvement and significantly contribute to our mission. This, I believe, can best be done by a thorough analysis of the objective results, with special attention paid to any ramifications impacting other areas of operation. The emphasis on re-engineering is both welcome and appropriate. At the same time, however, prudent judgment must prevail over "quick fixes" and superficial solutions that may in the long-term be counterproductive to our efforts. A comprehensive evaluation plan, one that objectively gauges baseline data and post-implementation results, is essential in assuring that end.

2. How does your office rate in productivity and effectiveness? How would you evaluate the initiatives that have occurred at your regional office?

Response -- Donald Ramsey, Director, VARO St. Louis, MO

The St. Louis VA Regional Office (RO) has outstanding productivity and effectiveness. The productivity index for all VARO's Adjudication operations nationwide for the 1995 fiscal year through April 30, 1995, is 92.59. The productivity index for St. Louis' Adjudication operation for the same period of time is 101.31. In terms of effectiveness, our direct labor effectiveness is 102.55 while the nationwide figure is 93.47. St. Louis ranks among the top offices in productivity and effectiveness.

As far as an evaluation of the initiatives that have occurred at my office, there have been many. In particular, I will highlight some of most recent and their results. We feel that initiatives are very much the reason for these successes.

Our Adjudication Division presently has five functional areas working on different aspects of claims processing. We have redesigned this operation to cull out the exceptional and clerical claims which are handled in a Special Projects area in each Section. The other work areas provide fast track adjudication of claims that do not require special handling.

On June 1, 1995, the St. Louis RO Adjudication Division was meeting the VBA timeliness goals set for September 1998 in all end products in both Compensation and Pension as well as Education. We feel these initiatives meet customer needs by providing more timely service.

Response -- James Maye, Director, VARO Roanoke, VA

The Roanoke Regional Office is one of the top producers in the country. For the six month period ending March 31, 1995, our productivity was 127.74 and effectiveness was 116.46. Nationwide, productivity was 97.64 and effectiveness was 102.47. Only three stations nationwide had a higher productivity index and eleven stations had a higher direct labor effectiveness ratio than Roanoke.

The two initiatives undertaken by our Property Management staff were to establish teams and to install a Local Area Network both in an effort to improve customer service. The reorganization to teams began in November 1993 and has empowered the team members to make decisions on both their day-to-day and long term goals. The staff has become much more familiar with the role that each team member plays and they have taken ownership of their individual team goals and the overall section goals. Although our teams are not yet considered "self-directed," we are taking steps to move in that direction. The teams conduct weekly meetings and are learning to

resolve difficulties without intervention by management. Members discuss and establish leave, vacation and core work schedules based on the teams' needs, prior to submission to the Chief for approval. The teams report that they have been able to provide more prompt service than they could as "specialized individuals," and their relationships with our customers are better than ever. Both the employees and our customers are pleased with our new organization and the efficiency it provides.

The initiative to install a Local Area Network in Property Management has allowed us to automate nearly all processes and to greatly reduce repetitive data entry. This automation provides immediate access to records and allows us to respond to both internal and external customer inquiries immediately. The network contains built-in checks and balances to ensure that actions are within established regulations, and to limit the potential for errors. Reporting requirements and diaries are built-in to aid in maintaining quality and timeliness.

The above two initiatives have been very beneficial to both VA and our customers. Both have been cost effective, and while there are periods of adjustment during each implementation phase, we feel that the advantages have far outweighed the perceived disadvantages.

The Adjudication Division's primary initiative has been the establishment of a pilot team composed of all clerical positions merged into a single position. Adjudicators, a Veterans Benefits Counselor and Rating Specialists located with their assigned claims folders. Their primary goal is to identify and test ways to improve service. This involves reduction of hand-offs, direct phone calls by claims examiners to customers and expansion of the functions of each position.

Our pilot team is definitely showing improvement in most areas of timeliness. The team is able to establish and focus on goals, target backlogs and better utilize resources to resolve problems and immediately respond to customer inquiries. Employees are expressing satisfaction in working in this environment with both the team members and customers. Customers are indicating satisfaction with having a team working for them and the team is developing ownership of their claims.

The pilot team has been established for five months, and we are in the process of developing ways to evaluate this initiative. In addition to program measures, we expect to use internal and external focus groups and surveys to measure customer satisfaction and to evaluate procedural changes and training results.

The vocational rehabilitation process in Virginia has been enhanced and accelerated with a partnership between the federal and private sectors. Roanoke's Voc Rehab & Counseling Division, in conjunction with private rehabilitation firms, has trimmed overall processing times for services from eleven to four months, and increased the number of rehabilitated service-disabled veterans by 266%.

Response -- Joseph Thompson, Director, VARO New York, NY

Our productivity and effectiveness scores are low. This results largely from the fact that we've completely realigned our office and the existing measurement system is no longer capable of measuring our efficiency. As a GPRA pilot site, we use a "cost-per-claim" unit of cost measure which we feel is a far better indicator of efficiency.

We're pleased with the changes we've made so far. Over the last two years, we've completely changed our organizational structure, workflow, job design and measurement systems and are now working with the Office of Personnel Management (OPM) to become a demonstration site for changing pay. All of our performance measures are improving, our employees find their work much more satisfying, and most importantly, veterans prefer the "new VA".

Response -- Joseph C. Williams II, Director, VARO Portland OR

As of April 30, 1995, the station productivity index for the fiscal year to date was 97.39. This compared favorably to the national average of 96.91

We are very excited about the Veterans Service Center initiative at our office. While maintaining our already-high levels of quality and public contact performance, we have achieved significant progress in timeliness of claims processing. For example, one year ago we averaged 270 days to complete an original compensation claim. Today, our average is 140 days. We attribute much of this improvement to the Service Center: It brought us a more efficient organization of the work and of our staff, improved customer service, and increased employee job satisfaction. This particular organizational design results in fewer hand-offs between processing elements and gains some performance advantages in that the teams are able to utilize their personnel more effectively. In addition, they are able to respond to workload pressure much more rapidly than in a conventional organization because the decisions are made by those closest to the actual work.

Response -- Montgomery Watson, Director, VARO Chicago, IL

I would rate the Chicago Regional Office fair to moderately good in terms of productivity and effectiveness when evaluated against comparably sized offices. Having said that, there is no doubt in my mind that substantial improvement in several critical areas is both absolutely necessary and achievable. The establishment of national Customer Service Standards and claims processing goals give us precise performance objectives toward which to strive. Streamlining work processes, reducing layers of management and empowering greater numbers of employees to serve as decision makers enhance our overall productivity. Greater customer focus and heightened interaction with veterans and dependents increase our effectiveness.

Hearing on May 12, 1995

**“Claims Processing at the Veterans Benefits Administration,
Update on Processing of Persian Gulf War Claims,
and Effect of Public Law 103-446,
the Veterans’ Benefits Improvements Act of 1994”**

**Follow-Up Questions for the Honorable R. John Vogel
Under Secretary for Benefits, Department of Veterans Affairs**

**from Honorable Terry Everett
Chairman, Subcommittee on Compensation, Pension
Insurance and Memorial Affairs**

Claims Processing Questions

Question 1: According to GAO, the 1988 backlog was 107,000 cases. Today, you are estimating around 400,000 cases pending, and your stated goal is 250,000 claims in backlog. Do you think that is a reasonable goal and why is that your goal?

Answer: The volume of 250,000 pending cases is the level at which the combination of current and expected staff levels can utilize current and expected technology to allow for the completion of claims within acceptable time frames. Given the nature and complexity of contemporary work, it is an amount of workload that is more appropriately described as pending rather than backlog.

Question 2a: How many Persian Gulf Vets have applied for compensation?

Answer: As of the end of April 1995, which is the most recent information available, 72,784 veterans have filed for compensation benefits.

Question 2b: How many for undiagnosed illness?

Answer: We do not have the number of veterans who have filed compensation claims for undiagnosed illness.

Question 2c: How many have been approved?

Answer: As of the end of April 1995, which is the most recent information available, 18,190 veterans who served in the Persian Gulf area during the Persian Gulf war are receiving compensation benefits. As of the end of May 1995, 152 of these veterans have been granted service connection for undiagnosed conditions.

Question 3: How did you arrive at 106 days for original compensation and 88 days for an original pension claim as processing goals?

Answer: The average processing goals were established based on a study conducted during 1991 at forty-four regional offices and implemented at the beginning of FY 1992. The study analyzed incremental processing steps of the existing work environment and then considered the possible impact of anticipated changes to the computer system, new legislation, and judicial determinations, while assuming a stable and adequate workforce to process the claims.

Question 4: In 1994 veterans filed about 3.2 million claims. In 1995 you estimate veterans will file about 2.7 million new claims. How much of the backlog reduction

you have experienced - and predict - is merely the result of fewer claims coming through the door?

Answer: The claims processing environment is dynamic and there are multiple overlapping factors that influence pending claims levels. In 1995 the volume of incoming work will drop, but primarily due to the new Eligibility Verification Reports (EVR) legislation and decreases in the record matching activities associated with the Omnibus Budget Reconciliation Act of 1990. There have also been many VBA management and technological initiatives that have contributed to the reduction in the pending backlog. Among the most significant of these initiatives has been the redistribution of staffing resources which saw an increase in the number of rating board staff. The use of resource sharing (Help Teams) has contributed in alleviating backlogs at offices. The introduction of new automated processing has also contributed to this effort through initiatives like PC Generated Letters, Rating Board Automation, the Automated Reference Manual System, and the newly revised Physician's Guide and its incorporation into the Automated Medical Information Exchange. It has been the synergy of many factors, in total, that has caused the number of pending claims to drop.

Question 5: A November 1992 analysis of claim processing time showed that of the 151 days to reach a decision, about 94 days were spent in the queue waiting to be worked on. How do you propose to reduce the queue time?

Answer: Much attention has been focused on this waiting time since 1992. The Blue Ribbon Panel on Claims Processing identified the time a claim waits in the rating board as too long and proposed a number of action items to address this problem area; two in particular have been effected and have contributed to the reduction of the pending rating workload. The first called for a re-allocation of existing FTE resources to the rating activity. In June 1993, when the Panel first began, there were 635 rating specialists; as of March 1995, there were some 850 rating specialists. The second called for the creation of a rating technician position to ensure that when cases go into the board they are ready to rate and do not sit in queue unnecessarily. Given the growing complexity of the claims and the nature of rating business, it was felt that the clerical processing of prior years was no longer adequate for the review and referral of cases to the board.

Question 6: ASD Deutch said that there was no evidence of WIDESPREAD offensive use of chemical or biological weapons in the Gulf War. That implies there may have been use or encounters with those weapons that was not widespread. In light of that possibility, is the two year presumptive period reasonable considering what may be a lack of the long-term effects of those weapons?

Answer: We defer to DOD on the issue of the evidence for chemical or biological weapons use in the Persian Gulf War. We presently do not have enough information to warrant reconsideration of the 2-year presumptive period. The current medical evidence concerning the etiology and characteristics of the undiagnosed illnesses is uncertain. It is possible that we could be dealing with more than one clinical entity.

Question 7: What is the current percentage of initial C&P exams that are incomplete for rating purposes?

Answer: Currently, some 3 percent of all categories of C&P examinations require further clarification. A revised Memorandum of Understanding between VBA and VHA was signed in December 1994 to reinforce the importance of quality and timely examinations for C&P purposes. A dialogue is maintained between regional offices and the medical facilities on the issues affecting the quality and timeliness of examinations. Regional office and medical center officials hold regular liaison meetings to discuss areas of concern and clarify regional office examination

requirements. Examination coordinators at the local offices and at Central Office help to facilitate the process.

Question 8: One VSO (PVA) has suggested that single member decisions has obviated the need for a centralized Board of Veterans Appeals and suggests that Board members should now be outstationed at ROs to not only perform the Board review function, but also to train RO personnel in adjudication. Given the problems that originate in the ROs, the TQM concept of emphasizing quality at the lowest level (as opposed to a series of Quality Assurance reviews that only find problems) and the maturing of video conferencing technology to provide distance training and education, don't you think that might be a pilot worth trying?

Answer: We would defer to the Chairman, Board of Veterans Appeals on the issue of whether single member decisions have obviated the need for a centralized Board of Veterans Appeals. Obviously arguments can be made to maintain the Board as a centralized institution. VBA has a well-organized program to provide training to RO Adjudication personnel, including structured training programs at the VBA Academy in Baltimore. In fact, the Academy has provided training specifically for new Attorneys at the BVA, a case of VBA personnel training BVA decision makers.

While it is clearly true that problems and errors that could be eliminated at the RO Adjudication process would also favorably affect the appeal process, it is also true that VBA puts great emphasis on both the TQM concept of continuous quality improvement and the more traditional quality assurance reviews. Our understanding of quality management is that an effective and systematic effort to identify process errors is essential to the TQM concept and that these are compatible efforts.

VBA is pursuing interactive distance learning. The first broadcasts may be as soon as October 1995 with 20 regional offices capable of receiving them. All offices may be on the downlink as soon as March 1996, depending on funding.

This new information dissemination medium will be used to provide immediate training and discussion of a variety of topics. Plans call for providing courses or discussions of a short duration that provide cognitive rather than psychomotor skills. The Board of Veterans Appeals would be welcome to use this system at any time to provide training to VBA adjudication personnel. The uplink will be from the broadcast studios of the VAMC in Washington.

Question 9: Would you agree that as a general rule the 10 and 20 percent disability ratings tend to be the least complex? Would you include the 100 percent ratings in that category too?

Answer: The complexity of a rating is a factor of the nature and number of conditions under consideration and of the type and quality of the evidence to be reviewed. Ratings at the 10 or 20 percent level probably would present fewer conditions and possibly a less complex diagnostic picture. Some 100 percent ratings would also fall into this category, e.g., a 100 percent rating for anatomical loss of both feet. However, ratings, whatever the percentage evaluation might be, can be much more complex. Ratings involving neuropsychiatric disorders or diseases such as multiple sclerosis may be complex simply due to the very nature of the disease and the medical evidence upon which the evaluation must be based. To take other veterans, ratings at the 100 percent level under 38 U.S.C. 1114(l) through (s) involve special monthly compensation and may be extremely complex, due to the severity of the disability necessary to qualify under the statutory criteria. Each veteran who files a claim for service-connected compensation presents an individual and unique disability situation, and is entitled to an accurate and comprehensive rating decision and, by law, a full explanation of the reasons and bases for that decision.

Question 10: Veterans receiving compensation at the 0, 10, 20, and 100 percent rates now comprise about 60 percent of the total C&P rolls. If these are generally the easiest

cases to rate, would you agree that a method to reduce adjudication time spent on these relatively simple cases would allow your personnel to concentrate on the more complex claims?

Answer: Through the use of overtime and the adoption of several management and modernization initiatives, we have reduced our pending workload significantly, and we expect this trend to continue. In my May 12 testimony, I mentioned initiatives that specifically are having a beneficial effect on the rating backlog: These include increasing rating board resources, computer applications to facilitate preparation of rating decisions, and authorization for single-signature rating decisions. Whatever measures we adopt to reduce the pending workload, we must ensure that quality and care are given to all claims. We must not give the appearance of prejudging the complexity of a claim or the needs of an individual claimant.

Question 11: What does VA do to disseminate and enforce new COVA rulings throughout all ROs?

Answer: Within the Veterans Benefits Administration's (VBA) Compensation and Pension Service, the Judicial Review Staff reviews each precedent decision issued by the Court of Veterans Appeals. A document is prepared which assesses the case for impact on VBA's procedures or policy. Each decision assessment document (DAD) is distributed for concurrence within the Compensation and Pension Service and General Counsel. Once the document is approved by the Director of the C&P Service, it is sent to the regional office. The document is also sent to the appropriate staff group for action if it recommends a change to VBA procedures or policy. The DAD serves as the instructional/reference document at the regional offices until the required change is implemented. These DADs are sent to the regional offices monthly. Each decision of the Court is also discussed on VBA's monthly Judicial Review Conference Call. All DADS and Court decisions are available to regional offices on the ARMS system (a centralized CD ROM system).

Court decisions are generally assessed in from four to eight weeks. Cases of significant impact on VBA's adjudication process are discussed on the next Judicial Review Conference Call -- no more than two to three weeks after issuance. If the impact is significant and our procedures must be changed, we will often issue immediate correspondence so that the information is conveyed to the field stations expeditiously. Service organizations and private attorneys have access to the assessment documents by dialing in to the VBA bulletin board.

After the Court rulings are disseminated and implemented, the Compensation and Pension Service assures compliance as with program statutes, regulations and procedures. The Service also reviews a sample of cases processed by all the regional offices to assure compliance. The full range of the adjudicative workload and process is reviewed to assure not only compliance but also to optimize service to the veteran and dependent claimant.

Question 12: Your testimony mentioned that VBA is working to revise the rating schedule. Informally, we have heard that there are other VA regulations that do not conform to law as cited in both Gardner and Davenport cases. To your knowledge, are there other Gardner/Davenport type regulations that contradict law, and when can we anticipate suggested legislation to correct such discrepancies?

Answer: On September 1, 1994, the United States Court of Appeals for the Federal Circuit, invalidated VA's interpretation of Public Law 98-542, and ruled that the statute did not permit establishment of an exclusive list of radiogenic diseases for which service connection could be considered on a direct basis (Brown v. Combee). As a result of that and Section 501 of Public Law 103-446, we published a revision to 38 CFR 3.311 on February 21, 1995. This decision, however, will not have the same policy or budgetary significance that we expect from the Gardner/Davenport decisions. To our knowledge, there are no other "Gardner/Davenport-type" regulations, that is, potential court decisions that could result in changes similar to Gardner or Davenport in scope and cost.

VA testified before the Senate Committee on Veterans' Affairs on June 8, 1995, in favor of amending the statutes at issue in both Gardner and Davenport to reinstate the eligibility requirements as they existed prior to those court decisions.

Question 13: One VSO (DAV) has suggested that BVA decisions do not offer specific enough guidance in a remand, and suggests that BVA write its decisions more like the Court of Veterans Appeals. What is your opinion of this idea?

Answer: It seems to us that generally BVA remand decisions are very specific. To respond to this query we reviewed several very recent remands orders and found the following types of specific requests: that the RO obtain a certain type of medical examination, that the claims file be made available to the examiner, that the examiner be asked to review the claims file and express an "opinion on the etiology of any disabilities," where to obtain medical records from, and to obtain a social and industrial survey to determine employability.

Computer Modernization Questions

Question 1: Who is in charge of all computer modernization in VBA? Does that person report to IRM?

Answer: VBA's overall computer modernization effort is the responsibility of the Director, Office of Information Technology (OIT), working in close coordination with the VBA Chief Information Officer (CIO). The Director, OIT, designs and implements the technical solutions to address the user and business requirements developed by the VBA CIO and program service areas.

The Director, OIT, reports to the Deputy Under Secretary for Benefits.

Question 2: How much has been spent on computer modernization in the 3 phase project?

Answer: Total acquisition funding for the three-stage modernization effort is projected at \$95.7 million. To date, \$46.6 million in 1993 and \$19.8 million in 1994 has been obligated on the contract awards for modernization. An additional \$29.3 million is planned for obligation in the 1996 budget to complete the required funding.

Question 3: The recent CNA report criticized VBA's computer modernization plan for "seriously stressing the organization's ability to integrate and manage effectively the modernization projects that are underway and planned." What is VA doing to address that criticism?

Answer: CNA's overriding conclusion is that VBA is being challenged by change. We are in the midst of massive change, from day-to-day RO operations, to the planning and management of tactical and strategic business initiatives and the associated technology requirements. Although this organization is not experienced in the management of such a high rate of change, we have already taken action with regard to some of the specific modernization related issues identified by CNA in the conduct of their Organizational Assessment task.

VBA has underway both a near-term and long-term approach to respond to CNA's findings regarding the management and integration of current and planned modernization initiatives. In the near-term, VBA has implemented a series of actions to more effectively control ongoing modernization initiatives. These actions include the creation of the VBA Policy Board to evaluate and approve business and information technology requirements and initiatives; the CIO integrated planning initiative which facilitates the integration of VBA's various business, training and technology initiatives; and the VBA Operationalized

Objectives initiative, an analysis of VBA's customer-driven goals and requirements and the decomposition of those goals and requirements into quantitative specifications for the evaluation of business and technology change activities. In addition, VBA has appointed a senior business representative as the project manager for the VETSNET initiative and has revised the VETSNET project plan in keeping with CNA's VETSNET related recommendations.

In the longer-term, VBA has underway a Strategic Planning Initiative based on the Government Performance and Results Act (GPRA). We are developing a process for integrated business planning and have initiated business planning models in two of our major program areas. When completed, this initiative will result in a corporate business planning process which will encompass all VBA program areas.

Hearing on May 12, 1995

**"Claims Processing at the Veterans Benefits Administration,
Update on Processing of Persian Gulf War Claims,
and Effect of Public Law 103-446,
the Veterans' Benefits Improvements Act of 1994"**

**Follow-Up Questions for the Honorable R. John Vogel
Under Secretary for Benefits, Department of Veterans Affairs**

**from Honorable Lane Evans
Ranking Member, Subcommittee on Compensation, Pension
Insurance and Memorial Affairs**

Question 1: Mr. Vogel, in 1993, the VA's Special Committee on Post Traumatic Stress Disorder expressed grave concern about VBA's apparent unwillingness to address significant statistical differences in the rate of allowance and in the average level of disability awarded to Vietnam veterans with PTSD claims. The Special Committee made five specific recommendations, three of which you suggested "be the topic of study for the Special Committee and its VBA membership."

- A) Is the study you suggested complete? If so, may we have a copy?
- B) If the study has not been completed, what assurance can you give the Committee that VBA isn't simply ignoring this situation?
- C) Please provide for the record copies of all training materials on PTSD and an update on approval rates and average percent disability granted for PTSD. These tables should be compiled in the same manner as those contained in the Special Committee's July 1, 1993, report.

Answer:

A. The recommendations concerned issues surrounding PTSD training and monitoring of PTSD claims for quality. I did not intend to suggest that a formal study be conducted addressing these issues. However, we did feel that the issues raised by the Special Committee warranted our attention.

B. VBA and VHA developed a training film on PTSD, which is in all VAMC libraries and has been distributed to all VBA regional offices. From December 1992 to September 1993, the Compensation and Pension Service participated in training sessions providing PTSD training, among other issues, to most regional offices.

On December 6, 1993, the Compensation and Pension Service published a comprehensive training letter on the medical and rating issues involved in PTSD claims.

We monitor PTSD claims through station surveys and the quality review process. Indications of persistent departures from established regulations and guidelines are brought to the attention of the appropriate officials at the regional offices involved, with followup to ensure compliance.

In addition, we are now finalizing the proposed revision to the portion of the Rating Schedule dealing with mental disorders. This revision will include the impact of DSM-IV on PTSD, as well as on other mental conditions.

We are enclosing a copy of a Fact Sheet recently sent by the Secretary to Senator Rockefeller, who expressed concerns about the disparities in PTSD grant rates at various regional offices. In particular, Senator Rockefeller expressed concerns about the low grant rate at the Los Angeles office. We believe that this fact sheet may be of interest to the Committee as a statement detailing our analysis of PTSD issues.

C. A copy of the December 6, 1993, training letter is also enclosed. VBA does not maintain statistics in the formats prepared for the July 1, 1993, report. However, we are happy to provide the enclosed report which shows the cumulative grant rate in PTSD claims nationwide and for each regional office.

Question 2: You mention between 5 and 9 organizational models being tested at various Regional Offices. Wouldn't you be better off by selecting those models you favor for universal application at all Regional Offices?

Answer: A package of four basic models was issued to all Regional Office Directors, Adjudication Officers and Veterans Services Officers in November 1994 as a basic guide for their re-modeling efforts. Each station was instructed to review their current organizational structure in terms of claims processing and service delivery and to create an organizational structure based on the four models provided that would enhance service delivery and streamline the processes for the future years. While empowering our local managers and their employees to use their experience and expertise, specific descriptions of their plans as well as timelines for implementation were required for review by the Area Offices, the Compensation and Pension Service and the Veterans Assistance Service. We believe that latitude and discretion allowed is warranted in view of the considerable diversity in our adjudication divisions including: size (10 to 217 FTE), structure (regional office or medical and regional office center), and location (large population centers such as New York and Los Angeles and small population centers, such as White River Junction and Fargo). VBA has formed a Modeling Support Committee to assist and guide the stations and the Areas in this long-term transition process.

Question 3: All previous investments in data processing have required reductions in FTEE to fund the improvements. Will this continue to be the practice in your modernization efforts?

Answer: It is true that when VBA installed its Target system, FTE reductions were taken to fund the system. However, this has not been the case in our modernization efforts. All FTE reductions have reflected human resource savings associated with specific modernization initiatives. The reductions were a benefit of modernization, not the cost of it. No further FTE savings are estimated at this time.

Question 4: Mr. Vogel, I understand that part of the process of revising the rating schedule involves obtaining the agreement of other offices in the Department. Would you please tell us:

- A) How many revised parts (the VA uses "body systems" as a way of categorizing parts of the rating schedule) of the rating schedule have been published since you decided to update the schedule?
- B) How many revisions are floating around the Department in various stages of concurrence?
- C) How many parts of the schedule has VBA yet to complete?

Answer: We prepare revisions to the Rating Schedule in a two-step process. First, we prepare a proposed revision for each body system. That is published in the Federal Register with a 60-day public review and comment period. Thereafter, we prepare the final revision for publication. Both the proposed revision and final revision are subject to the same Departmental review and concurrence process. Generally, in addition to VBA, the Veterans Health Administration, the Office of the General Counsel, the Office of the Inspector General, the Office of Congressional Affairs, and the Office of Public Affairs review the revisions. I should also mention that revisions, in both proposed and final forms, must receive the approval of the Office of Management and Budget before we may clear them for publication. Attached is a table which responds to your inquiries.

Regulatory revision, especially of a section as significant as the Schedule for Rating Disabilities, is a serious, deliberative process. The dialogue between VBA and VHA and GC, in particular, is important and substantive. We currently are working with GC to obtain their concurrence on the final revisions to 7 body systems and the proposed revisions to 5 others.

CURRENT STATUS OF RATING SCHEDULE REVISIONS

| <u>BODY SYSTEM</u> | <u>PROPOSED REVISION</u> | <u>FINAL REVISION</u> |
|--------------------|--------------------------|-----------------------|
| Genitourinary | Publ. 12/2/91 | Publ. 1/18/94 |
| Dental/Oral | Publ. 1/19/93 | Publ. 1/18/94 |
| Gynecological | Publ. 3/26/92 | Publ. 4/21/95 |
| Cardiovascular | Publ. 1/19/93 | In Preparation |
| Respiratory | Publ. 1/19/93 | In Concurrence |
| Skin | Publ. 1/19/93 | In Concurrence |
| Endocrine | Publ. 1/22/93 | In Concurrence |
| Systemic | Publ. 4/30/93 | In Concurrence |
| Hemic-Lymphatic | Publ. 4/30/93 | In Concurrence |
| Muscle Injuries | Publ. 6/16/93 | In Concurrence |
| Hearing/Ear | Publ. 4/12/94 | In Concurrence |
| Orthopedic | In Concurrence | |
| Mental | In Concurrence | |
| Vision | In Concurrence | |
| Neurological | In Concurrence | |
| Digestive | In Concurrence | |

Question 5: Please comment for the record on the assumption that a high remand rate from the BVA indicates a high error rate in original regional office decisions.

Answer: There are various reasons for remands by the BVA to regional offices, many of which do not translate to regional office errors. Some remands are based on judgmental differences rather than errors. Among these are the remands for more adequate examinations. "Adequacy" of a medical examination can be a judgment call and should be characterized as error only in the egregious cases.

Often remands will involve second and even third requests for information from a claimant which was not provided in response to a first request. In one case, Connolly v. Derwinski, 1 Vet. App. 566 (1991), even though the veteran rejected further testing on numerous occasions, the matter was remanded so that VA could more adequately explain the need for a definite diagnosis before scheduling the veteran for yet another examination.

Case law which overturns long-standing VA policies or procedures and which is developed during pendency of an appeal can result in a remand, even if the original VA decision was correct at the time it was made. The case of Thurber v. Brown, 5 Vet. App. 119 (1993), and its progeny are examples of this type of remand.

Lastly, Court remands which vacate the BVA decision with directions to vacate the underlying RO decisions due to a finding that the original claim was not well grounded or was improperly reopened do not correct a substantive error. In these types of cases, since VA's denial on the merits did not deprive the claimant of any additional benefits, the Court's action results in a denial on a different basis, and any error would be harmless to the claimant.

Question 6: What percentage of the 3.3 million claims actions are original compensation claims? What is the average processing time for claims other than original compensation claims?

Answer: Original compensation claims (live) represented 4.74% of our total claim actions for FY 94. Including original death compensation (DIC) claims, the total percentage was 5.54%. Average processing time is routinely computed by specific claim type and claim category. Current timeliness data (FYTD 4/30/95) includes:

| | |
|--|----------|
| All Original Claims (including pension) | 85 days |
| All Adjustments & Supplemental Claims | 74 days |
| All Ancillary Claims (hearings, special eligibility, etc.) | 50 days |
| Special Reviews | 9 days |
| Original Disability Compensation (live) | 165 days |
| Total All Actions | 64 days |

Question 7: VA anticipates reducing the processing time for original compensation claims to 106 days by the end of FY '98.

A) Is this assumption contingent upon maintaining VBA's current FTEE and budget levels?

B) Chairman Kasich's budget proposal contains a multi-billion dollar reduction in VA's discretionary funding. What impact would such a reduction have on veterans programs and on VBA's timeliness and quality of claims processing?

Answer:

A. Our assumption is dependent on a number of factors, three of the most prominent of which are as follows: staffing continues to be stable, our planned management and technological initiatives are implemented on schedule and result in the improvements we expect and we do not have any major changes in claims processing necessitated by new legislation or Court of Veterans Appeals rulings.

B. We cannot determine the impact a reduction in VA's discretionary funding would have without specific fiscal information from which we could estimate such impact.

Question 8: According to your testimony, VBA's timeliness goals are, in part, contingent upon full implementation of the modernization program. Nevertheless, both GAO and GSA have questioned aspects of this plan.

A. Specifically, how has completion of Stage 1 improved the timeliness and quality of claims processing?

Answer: Completion of the installation of Stage 1 equipment at the regional offices has been too recent for any analysis of improved processing of claims which might be associated with it. The PC "platform" created at all our regional offices with Stage 1 gives VBA the automated environment it needs for the future. This environment will allow us to begin to benefit from Stage 1 software initiatives such as PC Generated Letters, Rating Board Automation, the Automated Reference Manual System, and the newly revised Physician's Guide and its incorporation into the Automated Medical Information Exchange.

B. Has VA redefined its Stage 2 goals in the wake of this criticism?

Answer: VBA's technology focus under Stage 2 of the Modernization Program is the acquisition and implementation of imaging equipment to support Regional Office (RO) operations. While VBA has not "redefined" its Stage 2 goals, the Secretary for Veterans Affairs did enter into an agreement with OMB in June 1993 to implement Stage 2 technologies at a limited number of facilities in order to test and validate the impacts of imaging on RO workload. VBA's current Stage 2 implementation plans call for the deployment of Stage 2 systems at the St. Louis and Atlanta RO's for the purposes of conversion and evaluation respectively. VBA will use the results of these initial deployments to assess future Stage 2 implementation strategies.

Question 9: The "Government Computer News" stated that "VBA is now trying to accommodate a rate of change that its operational management infrastructure cannot handle effectively."

What has VBA done to ensure that personnel extract the maximum benefit out of the equipment?

What changes are you implementing in the wake of this criticism?

Answer: VBA has undertaken a massive training effort to ensure that all field personnel are capable of utilizing our modernized technologies to their maximum ability. Over 7,000 VBA employees have received initial training in our newly deployed modernized hardware. Over 3,000 employees have been trained in advanced word processing applications and another 400+ employees have been trained in the technical systems capabilities provided in our new systems environment. Ongoing and refresher training are key components of our modernization plans.

Though VBA is not implementing changes in direct response to recent articles in the media, we have initiated actions in response to the recently completed CNA Corporation Organizational Assessment of VBA Modernization Activities. CNA's overriding conclusion is that VBA is being challenged by change. CNA states that VBA is in the midst of massive change, from day-to-day RO operations, to the planning and management of tactical and strategic business initiatives and the associated technology requirements. Although this organization is not experienced in the management of such a high rate of change, we have already taken action with regard to some of the specific modernization related issues identified by CNA in the conduct of their Organizational Assessment task.

VBA has underway both a near-term and long-term approach to respond to CNA's findings regarding the management and integration of current and planned modernization initiatives. In the near-term, VBA has implemented a series of actions to more effectively control ongoing modernization initiatives. These actions include the creation of the VBA Policy Board to evaluate and approve business and information technology requirements and initiatives; the CIO integrated planning initiative which facilitates the integration of VBA's various business, training and technology initiatives; and the VBA Operationalized Objectives initiative, an analysis of VBA's customer-driven goals and requirements and the decomposition of those goals and requirements into quantitative specifications for the evaluation of business and technology change activities. In addition, VBA has appointed a senior business representative as the project manager for the VETSNET initiative and has revised the VETSNET project plan in keeping with CNA's VETSNET related recommendations.

In the longer-term, VBA has underway a Strategic Planning Initiative based on the Government Performance and Results Act (GPRA). We are developing a process for integrated business planning and have initiated business planning models in two or our major program areas. When completed, this initiative will result in a corporate business planning process which will encompass all VBA program areas.

Question 10a: When will VBA's review of denied Persian Gulf claims be completed? Please provide Chairman Everett and I with copies of this review.

Answer: We expect that the review of previously denied cases to be completed within the next 10 weeks

Question 10b: Will you contact any veterans whose claim was originally denied, but who may now be entitled to compensation under P.L. 103-446?

Answer: All veterans involved in this review will receive notification of the latest decision made by the Area Processing Office (APO) reviewing the case.

Question 11: Only 97 of 1905 Persian Gulf claims for mysterious ailments have been granted. Please provide a breakdown of the reasons why 1808 claims were denied.

Answer: The statistics cited in the question were for the week ending April 28, 1995. At that time 133 cases were disallowed because there was a diagnosed condition found, 69 cases were disallowed because the claimed condition was not chronic; 15 cases were disallowed because the claimed condition was found to be due to another etiology; 847 cases were disallowed because the claimed condition was not manifest while the veteran was on active duty or during the presumptive period; 691 cases were disallowed because the claimed condition was not shown by the evidence of record; and, 53 cases were disallowed because the undiagnosed condition was less than 10% disabling.

As of June 1, 1995, there have been 2,682 undiagnosed cases rated by our offices. Service connection has been granted in 163 cases and 2,519 cases have been disallowed. There were 224 cases disallowed because there was a diagnosed condition found, 114 cases were disallowed because the claimed condition was not chronic; 16 cases were disallowed because the claimed condition was found to be due to another etiology, 1,255 cases were disallowed because the claimed condition was not manifest while the veteran was on active duty or during the presumptive period; 844 cases were disallowed because the claimed condition was not shown by the evidence of record; and, 66 cases were disallowed because the undiagnosed condition was less than 10% disabling.

Question 12: How many claimants have been assigned diagnoses without having additional medical examinations and have been denied compensation since the enactment of P.L. 103-446?

Answer: Any diagnosis which is assigned is based on medical evidence. Our rating boards may not determine that a condition is a diagnosable condition without adequate medical evidence to support their decision. In most instances where the condition was diagnosable, there would be no reason to secure additional medical evidence. We do not have any data which tell us the number of veterans who have been assigned diagnoses without having additional medical examinations and denied compensation since the enactment of P.L. 103-446.

Question 13: Similarly, VVA and The American Legion allege that some Gulf War veterans have been assigned diagnoses for which compensation is not granted rather than being granted compensation for "mysterious illnesses." Please comment on this allegation.

Answer: Eligibility for compensation under PL 103-446 is of course precluded if the claimed disability can be attributed to any known clinical diagnosis. To determine whether a diagnosis is appropriate, we review the individual veteran's history and records including results of physical examinations and laboratory tests. Recently we have requested VHA to take a look at some of the cases involving diagnoses and to confirm whether, in fact, such diagnoses are warranted.

Question 14: According to your testimony, VBA has centralized the processing of Gulf War cases for mysterious illnesses at four regional offices.

A) Are other Gulf War claims processed elsewhere?

B) What mechanisms are in place to ensure that Gulf War claims are being identified and that those dealing with mysterious illnesses are sent to the centralized locations?

Answer:

A. We have designated four regional offices as Area Processing Offices (APOs) which provides for regionalized processing of claims based on exposure to environmental hazards in the Persian Gulf and for claims based on an undiagnosed illness or a combination of undiagnosed illnesses. If a veteran claims any condition which may fall within these two categories, the case falls under the jurisdiction of the Area Processing Office. Once it is established that the case is under the jurisdiction of the APO, the APO will be the office that processes all compensation and pension issues raised by the claimant.

In those cases where there is no indication of exposure to an environmental hazard or there is no undiagnosed illness claimed, the cases are processed by the local regional office.

B. We have issued written directives to our regional offices which specify which cases must be sent to the APOs and the procedures for forwarding these cases. There is no indication that undiagnosed cases are not being referred to APOs as required.

Question 15: Some regional offices are highly efficient and exploring initiatives to improve the timeliness and quality of their services. How does your office disseminate information about successful initiatives to other regional offices and encourage them to develop similar strategies?

Answer: The performance of the Adjudication and Veterans Services Divisions at all our regional offices are monitored thoroughly by the Area Offices, and respectively the Compensation and Pension Service or the Veterans Assistance Service. The development, implementation and testing of initiatives throughout the country are documented, and the results of the significant initiatives are shared--particularly the successes. The sharing of the information is accomplished by various means, such as

national or Area conferences, conference calls, training sessions, specials listings, staff analyses and survey reports.

Additionally, key managers and employees have visited innovative stations to observe their structure and operation. While managerial latitude and discretion have been allowed to encourage local initiative and responsiveness to each station's particular needs, general guidelines have been provided indicating the necessity to reduce hand-off's and redundant actions, increase the percentage of decision makers, maximize use of new technologies, and increase employee participation.

Question 16: What steps have you taken to ensure that regional offices are promptly and fully informed of COVA decisions and their interpretations?

Answer: Within the Veterans Benefits Administration's (VBA) Compensation and Pension Service, the Judicial Review Staff reviews each precedent decision issued by the Court of Veterans Appeals. A document is prepared which assesses the case for impact on VBA's procedures or policy. Each decision assessment document (DAD) is distributed for concurrence within the Compensation and Pension Service and the Office of General Counsel. Once the document is approved by the Director of the C&P Service, it is sent to the regional office. The document is also sent to the appropriate staff group for action if it recommends a change to VBA procedures or policy. The DAD serves as the instructional/reference document at the regional offices until the required change is implemented. These DADs are sent to the regional offices monthly. Each decision of the Court is also discussed on VBA's monthly Judicial Review Conference Call. All DADS and Court decisions are available to regional offices on the ARMS system (a centralized CD ROM system).

Court decisions are generally assessed in from four to eight weeks. Cases of significant impact on VBA's adjudication process are discussed on the next Judicial Review Conference Call -- no more than two to three weeks after issuance. If the impact is significant and our procedures must be changed, we will often issue immediate correspondence so that the information is conveyed to the field stations expeditiously. Service organizations and private attorneys have access to the assessment documents by dialing in to the VBA bulletin board.

After the Court rulings are disseminated and implemented, the Compensation and Pension Service assures compliance as with program statutes, regulations and procedures. The Service also reviews a sample of cases processed by all the regional offices to assure compliance. The full range of the adjudicative workload and process is reviewed to assure not only compliance but also to optimize service to the veteran and dependent claimant.

FACT SHEET ADDRESSING THE INQUIRY OF
THE HONORABLE JOHN D. ROCKEFELLER, IV

ISSUE: PTSD Compensation Claims.

DISCUSSION: Senator Rockefeller has expressed his belief that a veteran's chances in prevailing in a PTSD claim should not be contingent on where the claim is processed. We fully agree but caution against making the assumptions that PTSD claims will be exactly the same at every regional office and that the failure of a regional office to fall within a "normal" range of grants and disallowances is indicative of fault on the part of that office. Several factors may affect the number and type of PTSD claims received.

- In some States social mores may be such that it is very acceptable for an individual to admit to and seek available assistance for psychological problems, even if the symptoms are minimal. In other States this may not be as acceptable, or financial and medical resources may not be as readily available to a person needing assistance. In these latter States, the number of claims is likely to be smaller, and those received often come from the most seriously ill.
- The demographics of the veteran population may also affect the type of claims received by a regional office. A high concentration of former prisoners of war, military retirees, or veterans more likely to have served in combat will affect the composition of a station's workload, including the type of PTSD claims it receives.
- Publicity can greatly increase the number of claims filed. However, it has been our experience that we see not only individuals with compensation claims that can be allowed, but also individuals who reopen claims previously disallowed on the basis that their disabilities are not related to service.
- The activities of a VA Vet Center can greatly affect a regional office's workload. Counselors at the Vet Centers not only solicit benefit claims and work closely with their patients but also help to sensitize local medical and social work personnel to the PTSD issue. Vet Centers also generate a good deal of publicity, which can have an impact as discussed above.

Other factors, which are basic to all PTSD claims, directly affect the outcome of PTSD claims. Under 38 CFR 3.304(f), service connection for PTSD is warranted when the medical evidence establishes a clear diagnosis of PTSD and there is credible supporting evidence that the claimed in-service stressor actually occurred and can be linked by the medical evidence to the veteran's current symptomatology.

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The Honorable John D. Rockefeller, IV

- The service records must support the veteran's contention that he or she was subjected to a recognizable stressor or accumulation of stressors of sufficient gravity as to evoke symptoms in almost anyone. Any Service Department evidence of service in the area where the claimed stressor occurred and evidence supporting the veteran's description of the event becomes part of the record. Evidence of combat or of having been a prisoner of war, in the absence of information to the contrary, is accepted as conclusive evidence of a stressor. Evidence of combat may be established by indication of receipt of the Purple Heart, the Combat Infantryman Badge, or similar citation. Other supportive evidence includes, but is not limited to plane crash, ship sinking, explosion, rape or assault, and duty in a burn ward or in graves registration.
- The medical evidence must support a diagnosis of PTSD. An examination must include a description of symptomatology and identification of the stressor that are sufficient to support a diagnosis of PTSD. In the absence of a firm diagnosis of PTSD, the claim must be denied.

Given the diversity of factors that can influence the number, type, and outcomes of PTSD claims, the Veterans Benefits Administration (VBA) shares Senator Rockefeller's concern that all regional offices apply the governing regulations and other directives consistently. VBA has taken steps to ensure consistency. VBA collaborated with the Veterans Health Administration in the development of a training film on PTSD. This film is in all VA medical center libraries and has been distributed to all regional offices. Between December 1992 and September 1993, staff of the Compensation and Pension Service participated in a series of training sessions in which PTSD training, among other issues, was provided to most regional offices. On December 6, 1993, the Compensation and Pension Service published a comprehensive training letter on the medical and rating issues involved in PTSD claims. A copy of that training letter is enclosed.

Senator Rockefeller mentioned 6 regional offices, pointing to one (Los Angeles) as having a PTSD grant rate significantly lower than the national average, whereas the other 5 had a significantly higher rate of grants. We have reviewed available statistical information over the last five years. These statistics show that the cumulative grant rate for Los Angeles has remained consistent during that period. The New York Regional Office showed an increase from 48.4 percent to a current 60.4 percent. The other four offices show varying degrees of decreases in their cumulative grant rates, but in general they have consistently maintained a grant rate higher than the national average.

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The Honorable John D. Rockefeller, IV

We also considered reviews made of PTSD claims from each office during the course of recent station surveys and through the quality review procedures of the Compensation and Pension Service. Although errors were noted in some instances, they were not beyond what might be routinely expected from a review of this type. In no office did we find a pattern suggesting unfamiliarity with or a willful departure from the regulations and instructions on PTSD claims. In particular, we found no indications in the Los Angeles regional office of departures from procedures or directives that would produce that office's low grant rate.

In view of Senator Rockefeller's concerns, 123 PTSD claims from the Los Angeles Regional Office, adjudicated between January 1 and March 24, 1995, were reviewed. There were 37 grants of compensation for PTSD (30 percent). Among the rest, 55 (45 percent) were denied for lack of a diagnosis of PTSD or for failure to report for VA examination; 12 (10 percent) were denied because military records did not support the occurrence of the alleged stressor; and another 4 (3.25 percent) were denied because the stressor was not related to service. The remaining cases could not be rated because of the claimant's failure to submit new and material evidence to reopen a previously denied claim, a failure of the claimant to provide needed evidence, or because the medical examination was inadequate for rating purposes and had to be returned to the examining facility for completion. We believe that these statistics confirm our earlier findings concerning Los Angeles. Nonetheless, we will continue to monitor the situation closely.

December 6, 1993

Director (00/21)
VA Regional Offices

211C (3-139)

SUBJ: Post-traumatic Stress Disorder (PTSD) Ratings

The issue of rating PTSD claims has received much attention in the last several months. In fact, this Service has provided personal guidance and instruction to several regional offices since December 1992. We have received many questions during these presentations and have attempted to satisfy all concerned by transmitting this training letter.

There are very few changes to the verbal presentation but it is very important to point out a change regarding the issue of maturation of PTSD and a psychosis. Recent discussions with VHA personnel have provided a better insight into the differentiation of symptoms of PTSD and psychoses. Other neuroses are not so clearly differentiated.

Any questions regarding this material should be directed to the Advisory Review Staff (211C) within this Service.

/S/
J. Gary Hickman, Director
Compensation and Pension Service

POST-TRAUMATIC STRESS DISORDER

- I. What is Post-traumatic stress disorder (PTSD)?
 - A. Definition
 - B. Historical evolution of the diagnostic classification of PTSD

- II. How is service connection established for PTSD?
 - A. Existence of a stressor
 - B. Types of stressors
 - C. Problems with diagnosing PTSD
 - D. Coexisting psychiatric disorders
 - E. Role of the Environmental Support Group

- III. How are claims for PTSD reevaluated?
 - A. Reexamination procedures
 - B. Justifiable changes in service-connected evaluations
 - C. Temporary 100% evaluations under 38 CFR 4.29
 - D. Maturation of the PTSD diagnosis
 - E. Secondary service-connected conditions
 - F. Coexisting psychiatric disorders

- IV. What references do you need?
 - A. 38 CFR 3.304, 3.326, 3.327, 3.344
 - B. 38 CFR 4.2, 4.7, 4.29
 - C. M21-1, Adjudication Procedures, Part VI, Chapter 7
 - D. Diagnostic and Statistical Manual of Mental Disorders-Third Edition, Revised (DSM-III-R)

In 1980, the American Psychiatric Association added PTSD to its Diagnostic and Statistical Manual of Mental Disorders-Third Edition (DSM-III) nosologic classification scheme. Although a controversial diagnosis when first introduced, PTSD has filled an important gap in psychiatric theory and practice. From an historical perspective, the significant change ushered in by the PTSD concept was the stipulation that the etiological agent was outside the individual rather than an inherent individual weakness (i.e., a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma."

In its initial DSM-III formulation, a traumatic event was conceptualized as a catastrophic stressor that was outside the range of usual human experience. The framers of the original PTSD diagnosis had in mind events such as war, torture, rape, the Nazi Holocaust, the atomic bombings of Hiroshima and Nagasaki, natural disasters (such as earthquakes, hurricanes, and volcano eruptions) and human-made disasters (such as factory explosions, airplane crashes, and automobile accidents). They considered traumatic events as clearly different from the very painful stressors that constitute ordinary stressors in one's personal life such as divorce, failure, rejection, serious illness and financial reverses. (By this logic, adverse psychological responses to such "ordinary stressors" would, in DSM-III terms, be characterized as Adjustment Disorders rather than PTSD.) This dichotomization between traumatic and other stressors was based on the assumption that although most individuals have the ability to cope with ordinary stress, their adaptive capacities are likely to be overwhelmed when confronted by a traumatic stressor.

The DSM-III diagnostic criteria for PTSD were revised in DSM-III-R (1987). Indications are that the core syndrome will remain in DSM-IV with only minor modifications. A very similar syndrome is classified in International Classification of Diseases (ICD)-10. Diagnostic criteria for PTSD include a history of exposure to a traumatic event and symptoms from each of three symptom clusters: intrusive recollections, avoidant/numbing symptoms and hyperarousal symptoms. Another criterion concerns duration of symptoms.

SECTION I.What is Post-traumatic stress disorder (PTSD)?A. Definition of PTSD

PTSD is an anxiety disorder that develops following exposure to an overwhelming psychologically distressing event that is outside the range of usual human experience. The distressing event, or stressor as it is frequently referred to, would be markedly distressing to almost anyone, and is usually experienced with intense fear, terror and helplessness. The stressor does not need to have its onset during combat or be limited to one single episode. A group of experiences also may affect an individual, leading to a diagnosis of PTSD. Examples would be general combat, assignment to a grave registration unit, burn care unit or liberation of internment camps.

PTSD can occur hours, months, or even years after the stressor and must persist for at least one month. The condition is characterized by recurrent episodes of reexperiencing the traumatic event. Commonly, the person has recurrent and intrusive recollections of the traumatic event or recurrent distressing dreams during which the event is reexperienced. In addition to reexperiencing the trauma, the person may persistently avoid stimuli associated with the trauma, or a numbing of general responsiveness that was not present before the trauma.

A person suffering from PTSD may also experience persistent symptoms of increased arousal that were not present before the trauma. These symptoms may include difficulty falling or staying asleep, hypervigilance, exaggerated startle response, difficulty in concentrating or in completing tasks and changes in aggression.

Symptoms characteristic of PTSD are often intensified or precipitated when the person is exposed to situations or activities that resemble or symbolize the original trauma (e.g., cold snowy weather or uniformed guards for survivors of death camps in cold climates; hot, humid weather for veterans of the South Pacific).

B. Historical evolution of the diagnostic classification of PTSD

The problem of "traumatic stress" was first clearly identified in World War I as shell shock; also known as traumatic neurosis. In World War II and the Korean Conflict, traumatic stress was re-identified as combat fatigue. Following the Vietnam Era, we have rediscovered traumatic stress in the form of PTSD.

SECTION IIEstablishing service connection for PTSDA. Existence of a Stressor

Simply put, a stressor is a stimulus that causes stress. It follows, therefore, that a traumatic stressor is a stimulus of such proportions that one might suffer significant alterations in one's mental or physical life. Since a traumatic stressor is one that is outside the range of usual human experience, traumatic stressors would not generally include simple bereavement, chronic illness, business losses and marital conflict.

Military combat events are both unusual and markedly distressing. By law, VA accepts the testimony of a veteran who "engaged in military combat" as proof of a service related stressor unless there is clear and convincing evidence to the contrary. Therefore, if there is acceptable evidence showing the veteran engaged in combat with the enemy and the claimed stressor is related to combat, no further proof of a stressor is necessary.

Current policy and regulations require that to adequately evaluate a PTSD claim, evidence is needed to support the assertion that the veteran served in the area in which the stressful event is reported to have occurred. The impact on a veteran who is in the proximity of an area where the stressful event occurred, such as victim to a bomb explosion as opposed to within eyesight or earshot of an explosion, is an evaluation made on an individual case basis following analysis of all the evidence of record, particularly the veteran's description of the events.

Additionally, in the absence of contradictory information, receipt of the Purple Heart, Combat Infantryman Badge, and other similar citations for valor is considered sufficient evidence of a stressor. The Bronze Star, once considered acceptable, was removed from this group since this citation is not always given for valor. Additionally, POW status is conclusive evidence of an inservice stressor.

Claims for PTSD must be developed until there is reasonably credible evidence that the veteran suffered the alleged trauma. This will require details from the veteran unless evidence supports a combat related stressor or receipt of one of the above citations.

Reasonably credible evidence does not mean actually verified event but is a lower threshold permitting reasonable doubt to be applied. If the stressor is not combat related, complete development must be accomplished prior to any decision. The veteran must be given every opportunity, including the assistance of the Environmental Support Group, prior to a denial based on insufficient stressor provided the veteran has given details on which to conduct a search.

B. Types of Stressors

The most common traumata involve either a serious threat to one's life or physical integrity; a serious threat or harm to one's children, spouse, or other close relatives and friends; sudden destruction of one's home or community; or seeing another person who has recently been, or is being, seriously injured or killed as the result of an accident or physical violence. In some cases the trauma may be learning about a serious threat or harm to a close friend or relative, e.g., that one's child has been kidnapped, tortured or killed.

The trauma may be experienced alone (rape or assault) or in the company of groups of people (military combat). Stressors producing PTSD include natural disasters (floods, earthquakes), accidental disasters (car accidents with serious physical injury, airplane crashes, large fires, collapse of physical structures), or deliberately caused disasters (bombing, torture, death camps). Some stressors frequently produce PTSD (torture) and others produce it only occasionally (natural disasters or car accidents). Sometimes there is a concomitant physical component of the trauma, which may even involve direct damage to the central nervous system (malnutrition, head injury). PTSD is apparently more severe and longer lasting when the stressor is of human design.

Sexually-related traumatic events may be considered stressors. Conclusions that rape, sexual assault or other sexual trauma are stressors are easier to make since, obviously, these events are considered stressful to almost anyone. On the other hand, sexual harassment as a stressor may be less obvious and more difficult to corroborate. However, sexual harassment should not be ruled out as a stressor. For example, repeated incidences of sexual harassment collectively may be considered a stressor. Rating specialists must be sensitive to the claimants and not display moral judgment. The fact that a claimant may be sexually active does not lessen the impact of the stressful incident.

Since many sexually-related traumatic events are not reported, carefully consider if the alleged event can be supported by military or civilian records. Every effort must be made in assisting the claimant in developing pertinent evidence to support the alleged incident. If the evidence is sufficient to conclude that the inservice sexually-related stressful event occurred as alleged, and there is a diagnosis of PTSD linking the disorder to the event, service connection must be granted.

Although there is a renewed interest in subjective aspects of traumatic exposure, it must be emphasized that exposure to events such as rape, torture, genocide, and severe war zone stress, are experienced as traumatic events by nearly everyone.

C. Problems with diagnosing PTSD

Because of the great importance placed upon the traumatic stressor, PTSD is unique among other psychiatric diagnoses. In fact, one cannot make a PTSD diagnosis unless the patient has actually met the "stressor criterion" which means that he or she has been exposed to an historical event that is considered traumatic.

Clinical experience with the PTSD diagnosis has shown that there are individual differences regarding the capacity to cope with catastrophic stress so that while some people exposed to traumatic events do not develop PTSD, others go on to develop the full-blown syndrome. Such observations have prompted a recognition that trauma, like pain, is not an external phenomenon that can be completely objectified. Like pain, the traumatic experience is filtered through cognitive and emotional processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some more protected and some more vulnerable to developing clinical symptoms after exposure to extremely stressful situations.

The diagnosis of PTSD for compensation purposes is a two step process. The first step is to determine if there is reasonably credible supporting evidence that the stressful event took place. Are the criteria in 38 CFR 3.304(f) and M21-1, Part VI, 7.46 satisfied? Does the information in the folder provide satisfactory evidence that will lead to acceptance of the stressor?

The second step is to obtain a diagnosis of PTSD supported by a VA psychiatric examination. In order for the rating board to make a decision to grant service connection for PTSD, the examining psychiatrist must present a clear diagnosis showing a detailed history of the stressful events which are thought to have caused the condition and a full description of past and present symptoms. Because of the complexity of PTSD, careful clinical judgment is necessary to identify and describe the relationship between past events and current symptoms. Adjudication Procedures Manual, M21-1, Part VI, paragraph 7.46 provides the steps the examining psychiatrist must take and the information that must be incorporated into the examination report. If the required information is not provided, the examination may be considered inadequate for rating purposes and returned for clarification or amplification.

One of the major problems encountered with PTSD is the misdiagnosis of the condition under some other banner. There are many differential diagnoses involved with PTSD. These may include anxiety disorder, depressive disorder, organic mental disorder, adjustment disorder, personality disorder and in some cases even a psychosis. In addition to differential diagnoses, PTSD may coexist with other mental disorders. To provide claimants with the benefits to which they are entitled, appropriate consideration must be given to all evidence.

D. Coexisting psychiatric disorders

Medical literature shows that a patient may have more than one psychiatric condition existing at any one time. As mentioned, this makes the diagnosis of PTSD much more complicated. Persons suffering from PTSD may also show symptoms of other disorders such as anxiety reaction, agoraphobia, major depression, and passive-aggressive disorders.

PTSD is a neurosis not a psychosis, and symptoms common to a psychosis are not part of the symptoms and diagnosis of PTSD. In order to make a diagnosis of a neurosis, the symptoms must fit into a constellation of symptoms common to the diagnosis. A patient may exhibit symptoms of a neurosis, but if the patient does not meet the constellation of symptoms, he or she would not be diagnosed as having a neurosis. Persons diagnosed with "partial PTSD" or "with PTSD features" are not considered to have PTSD for compensation purposes.

The symptom picture of a psychosis is entirely different from that of PTSD. In a psychosis, the patient may be involved in an entire "conversation" (audio hallucinations) while having only scattered visual hallucinations. There are also other psychotic symptoms along with the cognitive disorder which are not present in PTSD. In addition, a psychosis occurs relatively early in life; i.e., in the late teens and early twenties.

On the other hand, the PTSD patient has only scattered fragments of audio hallucinations while the visual hallucination picture is very detailed and relates directly to the stressful incident (flashbacks). These intrusive symptoms may look like hallucinations but are, in fact, manifestations of the flashbacks. This disorder may occur at any stage of life.

E. Role of the Environmental Support Group (ESG)

The U.S. Army and Joint Services Environmental Support Group (ESG) or the Commandant of the United States Marine Corps acts as a resource to validate that the veteran experienced a stressor when all other available evidence is insufficient to establish a stressor. If review of available evidence is insufficient to establish a stressor, then a letter should be sent to the ESG or Marine Corps requesting supporting evidence. This letter should include details of the inservice stressful event as described by the veteran such as date, place, unit of assignment at the time of the event, description of the event, medal or citation received as a result of the event, and if appropriate, name and other identifying information concerning any other individuals involved in the event. The letter should also include information from the service department such as copies of appropriate pages from the veteran's personnel file showing unit assignments, dates of assignments, participation in combat operations, wounds received in action, awards and decorations, and official travel outside of the continental United States. All service verification forms (DD214, DA Form 20, AF Form 7, etc.) must be included with the submission. For additional guidance, all rating specialists should carefully review the "Guide for the Preparation and Submission of Post-Traumatic Stress Disorder Research Requests" furnished to each regional office by the ESG.

It is extremely important to stress that ESG will not verify an individual's experience but describe troop movements, company histories and other significantly relevant data for possible application of reasonable doubt. Current backlogs of ESG highlight the fact that this is an avenue of last resort.

SECTION IIIEstablishing Claims for PTSDA. Reexamination procedures

The standard applied to most disabilities, including psychiatric conditions, to determine if they should be considered "static" is the five year period discussed in 38 CFR §3.327 and §3.344. Similar symptomatology representing or confirming the same level of disability over a five year period is adequate to allow a determination that the condition has become "static" thus eliminating the requirement for review examinations. However, this does not prevent scheduling examinations if the facts change. It is the responsibility of the rating specialist to pursue reexamination if the symptomatology is inconsistent.

In addition to certain psychiatric disorders, §3.344 covers other disabilities such as orthopedic, neurological, arteriosclerotic heart disease, etc. which are subject to temporary or episodic improvement. If doubt exists as to whether or not a disability is static, the rating should be annotated to indicate the current evaluation is continued pending reexamination in 18, 24 or 30 months. The facts in each individual case will determine the length of time between examinations.

Rating specialists should also review the provisions of 38 CFR §3.326 in order to refresh their memory on what may be considered "Department of Veterans Affairs examinations". Reports from military hospitals, State, county or other government hospitals are some additional medical records that may also be accepted as "VA examinations".

After service connection has been established, based on a diagnosis provided by a psychiatrist, review examinations may utilize evidence provided by other qualified individuals such as psychologists. The information contained in the examination will be considered to determine if the disability has improved in severity. Another source of information may be a social survey which may prove useful in determining the veteran's ability to deal with the everyday aspects of life.

B. Justifiable changes in service-connection evaluations

Once a service-connected evaluation has been assigned, the evaluation should not be changed unless the evidence clearly shows that the disability picture has changed. Evaluations may not be reduced on examinations which are less full and complete than those examinations on which payments were authorized or continued. It is essential that the entire record of examinations and medical-industrial history be reviewed to ascertain whether the recent examination is full and complete. In the case of diseases subject to temporary or episodic improvements, such as psychoneurotic reactions, reductions will not be made on the basis of any one examination, unless in those instances where all the evidence of record clearly warrants the conclusion that sustained improvement has been demonstrated. (See 38 CFR 3.344 (a))

In both VA regulations and Court of Veterans Appeals decisions, the reduction of ratings which have continued for long periods of time (usually five years or more) at the same level have been prohibited based on a single examination. If a rating for PTSD has been in effect for five years or more, and the disability picture has not changed and is unlikely to improve, a future examination should not be scheduled.

If a future examination is felt to be necessary because there is doubt that the disability has stabilized, the rating will be annotated "Rating continued pending reexamination in _____ months from this date, §3.344." Based on the facts in the individual cases, reexamination will be scheduled in 18, 24 or 30 months.

It is important to remind everyone that a change in diagnosis should be viewed with caution. It must be determined whether the change represents a progression of an earlier diagnosis, an error in the prior diagnosis or a disease independent of the service-connected disability. When the new diagnosis represents a personality disorder the possibility of only a temporary remission of a superimposed psychiatric disease will be borne in mind.

Changes in evaluations should be reviewed after all necessary information has been obtained documenting the current status of the disability and in conjunction with the evaluation criteria contained in the rating schedule. The provisions of 38 CFR §4.2 concerning the interpretation of the examination report and §4.7 concerning the selection of the higher of two evaluations must be considered. Only if it is clear that the evidence and the regulations support a reduction in an evaluation should this action be taken.

Additionally, an increased evaluation will be assigned if that action is supported by the evidence. A future examination should not be scheduled to determine if the increased disability is shown to be sustained over a period of time prior to authorizing an increased level of compensation.

C. Temporary 100% compensation under 38 CFR §4.29

The provisions of 38 CFR §4.29 allow for the assignment of a total disability rating (100%) when it is established that a veteran's service-connected disability has required hospital treatment in a VA or an approved hospital for a period in excess of 21 days or hospital observation at VA expense for a service-connected disability for a period in excess of 21 days.

Also, §4.29 allows for payment of temporary total compensation to veterans requiring post-hospital care and a prolonged period of convalescence even though the required inpatient stay is less than 21 days, or to veterans who are discharged with less than 21 days hospitalization but accepted into a day treatment program. This is considered evidence of the need of ongoing care. VA Central Office concurrence is required in all cases with less than the required inpatient hospitalization, unless previously authorized. We do not accept hospitalization for alcohol or substance abuse as part of the PTSD symptomatology in the majority of cases. The total evidence of record must support alcohol or drug abuse as a secondary element of PTSD and alcohol or drug abuse must be shown by objective evidence to coincide with the traumatic event. We do recognize that substance abuse and PTSD may coexist and not be related.

The Veterans Health Administration (VHA) has established a number of PTSD Residential Rehabilitation Programs (PRRP) in order to provide necessary psychiatric treatment at reduced cost with reduced staffing. These programs are maintained at domiciliaries or on-station half-way houses or similar facilities under the auspices of the VA Medical Center (VAMC). The purpose of PRRP is to focus on rehabilitation efforts following more intensive specialized treatment for patients with a firm diagnosis of PTSD. Rehabilitation efforts are directed at securing employment, establishing housing and support systems in the community, continued PTSD treatment and, when indicated, sobriety maintenance. The general goal of a PRRP is to provide the veteran with a semi-structured environment before reentering the community. Payment of temporary total compensation under §4.29 is authorized for all veterans accepted into the PRRP provided the VAMC properly reports the dates of participation and any authorized or unauthorized absences. Participation in PRRP will not be considered an extension of a previous period of

hospitalization unless the evidence clearly establishes that the hospitalization was for a recognized service-connected disability such as PTSD.

D. Maturation of PTSD Diagnosis

PTSD is a psychiatric condition which is separate and distinct from a psychosis. The symptoms of the PTSD may mask the symptoms of the psychosis and as the PTSD comes under better control the psychosis may begin to appear. Discussions with Dr. Larry Lehmann, Associate Director of Psychiatry, Veterans Health Administration Mental Health Department, reveal that PTSD does not mature into a psychosis.

The early manifestations of some psychoses may at first look like some neuroses (this does not include PTSD). However, with time and further decompensation, the schizophrenia manifests itself. Thus, it is possible to have a condition which initially looks like, and is diagnosed as, a neurosis (not PTSD) and which is later shown to be a psychosis. However, psychoses generally occur in the late teens and early twenties. Later in life, the diagnosis should already have been made that the patient is suffering from a psychosis. Also, there are instances in which a patient with a diagnosed depressive disorder which is non-psychotic in origin (neurosis) may subsequently develop a psychotic depressive disorder. This is termed "double depression".

The symptoms of PTSD are significantly different from those of a psychosis. When rating cases in which PTSD has been diagnosed and evidence later shows treatment for another psychiatric condition diagnosed as a psychosis, each condition must be rated separately. If the hospital or other reports show treatment for one or both of these conditions, an examination must be scheduled. The examiner should be informed that the two conditions exist and that a differentiation of the symptoms attributable to each diagnosis is required. Dr. Lehmann states that psychiatrists should be able to make this differentiation.

E. Secondary service-connected conditions (i.e., substance abuse)

One of the major issues involved in evaluating PTSD is the relationship between this disability and alcohol or drug abuse. Service connection is not warranted for alcohol or drug abuse on a primary basis due to willful misconduct. However, alcohol or drug abuse may be recognized as service-connected if the substance abuse is directly due to a service-connected disorder such as PTSD.

Alcohol or drug abuse may coexist with PTSD and not be related. The issue of alcohol or drug abuse is not to be inferred in claims for PTSD. A formal disposition of the issue (by rating action) is required under four circumstances:

1. A formal claim by the veteran or claimant is made.
2. The examiner indicates that a relationship exists between alcohol or drug abuse and the service-connected disorder.
3. The abuse is diagnosed on an original compensation claim. Or,
4. A rating is being made for pension purposes.

A mere diagnosis of that relationship is insufficient to grant service connection. The evidence must support the relationship the same as secondary service connection between diabetes and retinopathy. There is only one approach to secondary service connection: one service-connected disability directly causes another disability.

If the veteran has not claimed the substance abuse and the examiner has diagnosed the abuse without any contention of a relationship, the rating specialist should not rate it as misconduct. If the abuse requires formal disposition and the total evidence even with a diagnosis does not support the relationship, the substance abuse is considered of unknown etiology and rated as willful misconduct.

If secondary service connection is recognized, the substance abuse will be considered as part of the symptomatology of the service-connected mental disorder. No additional compensation will be granted because of the consumption of drugs or alcohol. We will only consider the loss of self control as it relates to the behavioral disorder. If the substance abuse is recognized as a service-connected disability and it results in another disability such as cirrhosis, the additional disability will be service-connected under the provisions of 38 CFR §3.310(a). On the initial rating the disability would be placed under code 37.

F. Coexisting psychiatric disorders

It is entirely possible for a veteran to have another mental disability in addition to or in conjunction with PTSD. Our latest information from VHA reveals that a psychiatrist can clearly differentiate the symptomatology between PTSD and a coexisting psychosis. There is greater difficulty in separating

symptomatology of other neuroses and psychoses. We must attempt to distinguish the symptoms. If the examiner is unable to distinguish the specific symptoms of multiple disorders, we must consider the total symptomatology as a manifestation of the service-connected disease.

Caution should be exercised to place a veteran's longitudinal history in a logical perspective. Since veterans with mental disorders have often been examined by different clinicians at different stages of their lives, they may have received different diagnoses. Some clinicians place great emphasis on a previous diagnosis while others focus entirely on current signs and symptoms. Neither approach alone will do justice to the veteran in some situations. Generally, it is most practical to seek a single framework to explain the range of difficulties which may be found in a lengthy clinical record. DSM-III-R stresses the importance of listing multiple Axis I diagnoses when the necessary diagnostic criteria have been met. However, in the evaluation of veterans for the purpose of disability, it is essential to remember the complex, nonclinical, social issues which will be addressed on the basis of the evaluation, and a clarifying explanatory discussion should be provided by the examiner.

SECTION IV

References

- A. 38 CFR 3.304, 3.326, 3.327, 3.344
- B. 38 CFR 4.2, 4.7, 4.29
- C. M21-1, Part IV, Chapter 7
- D. Diagnostic and Statistical Manual of Mental Disorders-Third Edition, Revised (DSM-III-R)

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| RO | TOTAL CLAIMS | APPROVED TOTAL % | DISAPPROVED TOTAL % | PENDING TOTAL % | REFERRED TO BVA TOTAL % | REFERRED TO ARMY TOTAL % | REFERRED TO VACO TOTAL % |
|-----|--------------|------------------|---------------------|-----------------|-------------------------|--------------------------|--------------------------|
| 301 | 2967 | 1865 62.9 | 1098 37.0 | 4 0.1 | 2 0.1 | 1 0.0 | 1 0.0 |
| 304 | 1116 | 276 66.6 | 150 33.2 | 3 0.1 | 2 0.0 | 1 0.0 | 1 0.0 |
| 305 | 603 | 156 60.9 | 150 39.4 | 4 0.2 | 3 0.1 | 1 0.0 | 1 0.0 |
| 307 | 2611 | 1569 52.4 | 1238 47.4 | 4 0.2 | 3 0.1 | 1 0.0 | 1 0.0 |
| 308 | 1033 | 608 58.9 | 425 41.1 | 3 0.1 | 1 0.0 | 1 0.0 | 2 0.1 |
| 309 | 3375 | 220 65.8 | 1152 34.1 | 3 0.1 | 1 0.0 | 1 0.0 | 2 0.1 |
| 310 | 3992 | 2081 52.1 | 1911 47.9 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 311 | 1315 | 712 54.1 | 603 45.9 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 313 | 1140 | 545 47.8 | 595 52.2 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 314 | 3264 | 1562 47.9 | 1701 52.1 | 2 0.1 | 2 0.1 | 1 0.0 | 1 0.0 |
| 315 | 2576 | 1223 47.5 | 1353 52.5 | 2 0.1 | 2 0.1 | 1 0.0 | 1 0.0 |
| 316 | 3431 | 1818 53.0 | 1611 47.0 | 2 0.1 | 2 0.0 | 1 0.0 | 1 0.0 |
| 317 | 8335 | 4114 49.4 | 4219 50.6 | 1 0.0 | 2 0.0 | 1 0.0 | 1 0.0 |
| 318 | 2233 | 1185 53.1 | 1048 46.7 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 319 | 2233 | 1185 53.1 | 1048 46.7 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 320 | 2599 | 1306 50.3 | 1292 49.7 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 321 | 2389 | 1115 46.7 | 1274 53.3 | 2 0.1 | 1 0.0 | 1 0.0 | 1 0.0 |
| 322 | 2369 | 1268 53.5 | 1099 46.4 | 2 0.1 | 1 0.0 | 1 0.0 | 1 0.0 |
| 323 | 1655 | 843 50.9 | 810 48.9 | 2 0.1 | 2 0.1 | 1 0.0 | 1 0.0 |
| 325 | 5908 | 2581 43.7 | 3323 56.2 | 4 0.1 | 4 0.1 | 1 0.0 | 1 0.0 |
| 326 | 2076 | 933 44.9 | 1143 55.1 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 327 | 3538 | 1706 48.2 | 1831 51.8 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 328 | 1482 | 656 44.3 | 826 55.7 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 329 | 1482 | 656 44.3 | 826 55.7 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 330 | 3743 | 1876 50.1 | 1865 49.8 | 2 0.1 | 1 0.0 | 1 0.0 | 1 0.0 |
| 331 | 3075 | 1599 52.0 | 1475 48.0 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 333 | 1376 | 647 47.0 | 729 53.0 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 334 | 761 | 364 47.8 | 397 52.2 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 335 | 2220 | 1194 53.8 | 1025 46.2 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 339 | 3306 | 2105 63.7 | 1196 36.2 | 5 0.2 | 5 0.2 | 1 0.0 | 1 0.0 |
| 340 | 1569 | 745 47.5 | 823 52.5 | 1 0.1 | 1 0.1 | 1 0.0 | 1 0.0 |
| 341 | 1018 | 545 53.5 | 473 46.5 | 3 0.3 | 3 0.3 | 1 0.0 | 1 0.0 |
| 343 | 6205 | 3722 60.0 | 2481 40.0 | 3 0.0 | 2 0.0 | 1 0.0 | 1 0.0 |
| 344 | 4933 | 1790 36.3 | 3140 63.7 | 3 0.1 | 3 0.1 | 1 0.0 | 1 0.0 |
| 345 | 2835 | 1723 60.8 | 1112 39.2 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 346 | 6372 | 3449 54.1 | 2923 45.9 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 347 | 756 | 459 60.7 | 297 39.3 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 348 | 3339 | 1671 50.0 | 1667 49.9 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 349 | 5384 | 2622 48.7 | 2762 51.3 | 2 0.1 | 2 0.1 | 1 0.0 | 1 0.0 |
| 350 | 2245 | 1461 65.1 | 782 34.8 | 2 0.1 | 2 0.1 | 1 0.0 | 1 0.0 |
| 351 | 4531 | 2138 47.2 | 2000 48.2 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 352 | 1584 | 758 48.0 | 826 52.0 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 355 | 590 | 167 28.3 | 429 72.7 | 1 0.1 | 1 0.1 | 1 0.0 | 1 0.0 |
| 356 | 8 | 1 12.5 | 7 87.5 | 1 0.1 | 1 0.1 | 1 0.0 | 1 0.0 |
| 359 | 1256 | 786 62.6 | 469 37.3 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 362 | 2810 | 1428 50.8 | 1381 49.1 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 363 | 704 | 363 51.6 | 341 48.4 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 369 | 2 | 2 100 | 0 0 | 1 0.0 | 1 0.0 | 1 0.0 | 1 0.0 |
| 372 | 546 | 326 59.7 | 220 40.3 | 1 0.1 | 1 0.1 | 1 0.0 | 1 0.0 |
| 373 | 1370 | 758 55.3 | 611 44.6 | 1 0.1 | 1 0.1 | 1 0.0 | 1 0.0 |
| 377 | 1853 | 880 47.5 | 972 52.5 | 1 0.1 | 1 0.1 | 1 0.0 | 1 0.0 |

| RD | TOTAL CLAIMS | APPROVED | | DISAPPROVED | | PENDING | | REFERRED TO BVA | | REFERRED TO ARMY | | REFERRED TO VACO | |
|-------|--------------|----------|------|-------------|------|---------|-----|-----------------|-----|------------------|-----|------------------|-----|
| | | TOTAL | % | TOTAL | % | TOTAL | % | TOTAL | % | TOTAL | % | TOTAL | % |
| 402 | 1869 | 1295 | 69.3 | 570 | 30.5 | 4 | 0.2 | 1 | 0.1 | 3 | 0.2 | | |
| 405 | 738 | 335 | 45.4 | 201 | 27.4 | | | | | | | | |
| 406 | 738 | 335 | 45.4 | 201 | 27.4 | | | | | | | | |
| 437 | 423 | 189 | 44.7 | 224 | 53.0 | | | | | | | | |
| 438 | 560 | 273 | 48.8 | 287 | 51.3 | | | | | | | | |
| 442 | 398 | 203 | 51.0 | 195 | 49.0 | 2 | 0.1 | 2 | 0.1 | 1 | 0.3 | | |
| 452 | 1772 | 862 | 48.6 | 908 | 51.2 | 1 | 0.3 | | | 10 | 0.0 | | |
| 460 | 334 | 190 | 56.9 | 143 | 42.8 | | | | | | | | |
| TOTAL | 137538 | 71941 | 52.3 | 65595 | 47.6 | 62 | 0.0 | 42 | 0.0 | 10 | 0.0 | 10 | 0.0 |



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

OCT 25 1995

The Honorable Lane Evans
Ranking Member, Subcommittee on Compensation,
Pension, Insurance and Memorial Affairs
Committee on Veterans' Affairs
House of Representatives
Washington, DC 20515

Dear Congressman Evans:

Enclosed is additional information you requested following the May 12, 1995, hearing on Claims Processing at the Veterans Benefits Administration.

We will continue to monitor processing of PTSD claims nationwide to ensure consistency of our decisions.

We appreciate the opportunity to submit this information for the record.

Sincerely yours,

A handwritten signature in black ink that reads "Jesse Brown".

Jesse Brown

Enclosure
JB/rjh



Putting Veterans First

QUESTION 1:

C) Please provide for the record copies of all training materials on PTSD and an update on approval rates and average percent disability granted for PTSD. These tables should be compiled in the same manner as those contained in the Special Committee's July 1, 1993, report.

RESPONSE TO PART C:

Attached are the requested statistics on "Claims Approval Rates," following, as closely as possible, the format and language used by the Special Committee in its July 1993 Interim Report. The 18-month period runs from January 1, 1994, through July 1, 1995, the date of the most recent statistics. The 7.5-year period runs from January 1, 1988, through July 1, 1995.

The title of this report is a misnomer. The database from which the statistics were extracted tracks individual veterans who have made PTSD claims; it does not record the actual number of claims made by any one person. The statistics reflect the number of veterans who have filed PTSD claims during the time periods indicated and the percentage of those veterans who have received awards of compensation for PTSD.

Statistics needed to construct a current report on "Average Percent of Disability Granted" are no longer available. Therefore, we are unable to provide an update.

CLAIMS APPROVAL RATES

| VBA REGIONAL OFFICE | STATION NUMBER | SUBMITTED 18 MO. # CLAIMS | APPROVED 18 MO. % CLAIMS | SUBMITTED 7.5 YEARS # CLAIMS | APPROVED 7.5 YEARS % CLAIMS |
|---------------------|----------------|---------------------------|--------------------------|------------------------------|-----------------------------|
| Manila | 358 | 0 | 0 | 8 | 87.5 |
| Little Rock | 350 | 498 | 59.2 | 2,016 | 65.8 |
| New York | 306 | 1,021 | 64.2 | 3,361 | 63.9 |
| Newark | 309 | 775 | 56.8 | 2,691 | 63.6 |
| Denver | 339 | 670 | 57.6 | 2,820 | 62.6 |
| Togus | 402 | 447 | 55.5 | 1,600 | 62.4 |
| San Francisco | 343 | 1,853 | 57.1 | 5,830 | 60.4 |
| Honolulu | 359 | 347 | 51.9 | 1,106 | 59.8 |
| White Riv. Jct. | 405 | 93 | 59.1 | 434 | 59.7 |
| Boston | 301 | 492 | 56.9 | 2,198 | 59.5 |
| Hartford | 308 | 227 | 52 | 813 | 59.4 |
| Washington | 372 | 237 | 55.3 | 565 | 58.9 |
| Phoenix | 345 | 725 | 51.7 | 2,476 | 58.5 |
| Boise | 347 | 149 | 51 | 589 | 58.2 |
| Providence | 304 | 252 | 68.6 | 891 | 57.6 |
| Cheyenne | 442 | 60 | 61.7 | 301 | 57.1 |
| Wilmington | 460 | 90 | 52.2 | 290 | 56.6 |
| St. Paul | 335 | 581 | 52.8 | 1,990 | 56.5 |
| Montgomery | 322 | 610 | 58.4 | 2,258 | 55.3 |
| Philadelphia | 310 | 661 | 42.2 | 2,967 | 54.7 |
| Muskogee | 351 | 1,628 | 59.8 | 4,143 | 54.2 |
| Pittsburgh | 311 | 404 | 54.4 | 984 | 53.3 |
| Seattle | 346 | 1,372 | 53.2 | 5,281 | 53.2 |
| Atlanta | 316 | 1,116 | 43.5 | 3,098 | 52.1 |
| St. Louis | 331 | 887 | 49.9 | 2,795 | 52.1 |

CLAIMS APPROVAL RATES

| VBA REGIONAL OFFICE | STATION NUMBER | SUBMITTED 18 MO. # CLAIMS | APPROVED 18 MO. % CLAIMS | SUBMITTED 7.5 YEARS # CLAIMS | APPROVED 7.5 YEARS % CLAIMS |
|---------------------|----------------|---------------------------|--------------------------|------------------------------|-----------------------------|
| Columbia | 319 | 645 | 43.1 | 2,133 | 51.6 |
| Salt Lake City | 341 | 215 | 50.7 | 814 | 51.4 |
| Jackson | 323 | 381 | 46.2 | 1,440 | 51 |
| Houston | 362 | 906 | 35.2 | 2,724 | 50.8 |
| Manchester | 373 | 219 | 56.2 | 1,055 | 50.7 |
| Portland | 348 | 912 | 44.3 | 2,835 | 50.5 |
| Buffalo | 307 | 471 | 47.3 | 1,973 | 50.3 |
| Waco | 349 | 1,194 | 47.7 | 4,760 | 50.2 |
| Anchorage | 363 | 193 | 49.2 | 645 | 49.8 |
| Lincoln | 334 | 278 | 54 | 694 | 49.6 |
| St. Petersburg | 317 | 1,674 | 50.5 | 6,969 | 49.1 |
| Roanoke | 314 | 617 | 50.7 | 2,458 | 48.8 |
| Nashville | 320 | 555 | 41.8 | 2,276 | 48.6 |
| Milwaukee | 330 | 527 | 45.4 | 2,531 | 47.4 |
| Des Moines | 333 | 408 | 48.3 | 1,234 | 47.3 |
| San Diego | 377 | 434 | 47.9 | 1,584 | 47.3 |
| Sioux Falls | 438 | 185 | 46.5 | 474 | 47.3 |
| Wichita | 452 | 400 | 58 | 1,493 | 47.3 |
| Albuquerque | 340 | 379 | 49.1 | 1,367 | 46.7 |
| Detroit | 329 | 294 | 39.8 | 1,104 | 46.6 |
| New Orleans | 321 | 691 | 40.5 | 2,258 | 46.4 |
| Louisville | 327 | 833 | 35.3 | 2,999 | 46 |
| Indianapolis | 326 | 504 | 39.1 | 1,874 | 45.6 |
| Baltimore | 313 | 274 | 35.4 | 932 | 45.5 |

CLAIMS APPROVAL RATES

| VBA REGIONAL OFFICE | STATION NUMBER | SUBMITTED 18 MO. # CLAIMS | APPROVED 18 MO. % CLAIMS | SUBMITTED 7.5 YEARS # CLAIMS | APPROVED 7.5 YEARS % CLAIMS |
|---------------------|----------------|---------------------------|--------------------------|------------------------------|-----------------------------|
| Ft. Harrison | 436 | 196 | 45.9 | 718 | 45.4 |
| Huntington | 315 | 563 | 47.8 | 2,200 | 45.3 |
| Chicago | 328 | 375 | 52.3 | 1,916 | 44.9 |
| Reno | 354 | 101 | 54.5 | 581 | 43.5 |
| Fargo | 437 | 108 | 54.6 | 357 | 43.1 |
| Cleveland | 325 | 1,091 | 40.6 | 4,438 | 41.6 |
| Los Angeles | 344 | 939 | 32.9 | 4,205 | 37.1 |
| Winston-Salem | 318 | 612 | 41.2 | 2,991 | 33.6 |
| San Juan | 355 | 176 | 13.6 | 622 | 26 |
| TOTALS | | 32,545 | | 118,159 | |
| *Mean | | 561.1 | 49.4 | 2,037.2 | 51.5 |
| *Std Dev. (s) | | 411.1 | 10.9 | 1,462.7 | 8.9 |
| *Mean + 1s | | | 60.3 | | 60.4 |
| *Mean - 1s | | | 38.5 | | 42.6 |
| *Mean + 2s | | | 71.2 | | 69.3 |
| *Mean - 2s | | | 27.6 | | 33.7 |

*Term definitions follow on next page.

CLAIMS APPROVAL RATES CHART

Definition of Terms

Mean - is the average of all the values in the set of numbers.

The mean or average for the PTSD claims approved by the 58 regional offices in the 18-month period is 49.4 percent and mean or average for the 7.5 year period is 51.5 percent.

Standard deviation - is a measure of how widely values are dispersed from the average value (mean).

In a normal distribution 68 percent of the scores should fall within one standard deviation of the mean score and 95 percent of the scores should fall within 2 standard deviations of the mean.

The standard deviation for the distribution of PTSD claims approved in the 18 month period observed is 10.9 and for the 7.5 year period the standard deviation is 8.9.

Taking the 18-month period as an example, the mean (average) approval rate for the 58 regional offices is a 49.4 percent. The standard deviation is 10.9 for that period which means that 68 percent of the 58 regional offices have an approval rate between 38.5 percent and 60.3 percent for PTSD claims (mean plus or minus the standard deviation). It also indicates that 95 percent of the 58 regional offices for that same period have a PTSD claims approval rate that is between 27.6 percent and 71.2 percent (mean plus or minus two standard deviations).

Mean +1s - is the mean plus the standard deviation

Mean -1s - is the mean minus the standard deviation

Mean +2s - is the mean increased by twice the standard deviation

Mean -2s - is the mean decreased by twice the standard deviation



Non Commissioned Officers Association of the United States of America

225 N. Washington Street • Alexandria, Virginia 22314 • Telephone (703) 549-0311

Questions from the Honorable Terry Everett
Chairman, Subcommittee on Compensation, Pension,
Insurance and Memorial Affairs

QUESTION: The VSOs put a lot of effort into assisting veterans with their claims. Do you know how much each of your organizations devote to paying for service officers who assist veterans with their claims?

Mr. Rhea: The NCOA is not a large organization and therefore cannot afford a large network of paid service officers to serve the veteran community. To accommodate this the Department of Veterans Affairs allows service officers to be accredited by more than one organization. Accordingly, by agreement with other veteran organizations and the State Directors of Veterans Affairs, NCOA accredits service officers employed by others to represent cases presented by the Association. By doing so, a member of the association or a veteran seeking NCOA representation can be served in more locations. NCOA reimburses all of our accredited service officers for whatever costs arise from the cases they represent on our behalf. Such reimbursements together with other program costs amount to about \$150,000 per year.

QUESTION: How many hours of formal training do service officers get before you request VA certification? How many hours of annual refresher training do they get? Do you require recurring formal training to retain your organization's endorsement to practice before the VA?

Mr. Rhea: Service officers are trained on average 35 hours before Certification is requested. Annually, service officers receive approximately 8 hours of refresher training. Individually each veteran service officer receives special subject mailings of evolving policy that effects compensation and pension issues as well as updates from the DVA published in the Federal Register. Supervisory review of each service officer provides determination for specialized training and endorsement to represent clients in matters pertaining to the DVA.

QUESTION: What do you think of VA's overhaul of the rating schedule?

Mr. Rhea: Long overdue - but revision schedule is on track. NCOA greatly appreciates the fact that the Veterans Benefits Administration has held meetings with staff and veteran service organizational representatives to review the old rating schedule and recommend changes. The Institution has been receptive to comments and recommendations for rating schedule revisions which ultimately will benefit veterans.



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Questions from the Honorable Lane Evans
Ranking Member of the Subcommittee on Compensation,
Pension, Insurance and Memorial Affairs

QUESTION: The Republican leadership of the House and Senate have just unveiled their budget proposals. In addition to raising certain fees imposed on some veterans and possibly restricting future eligibility for compensation, they would drastically cut VA's discretionary funding. Chairman Kasich's proposal reduces funding by almost \$5.7 billion annually by 2002 relative to CBO's projected baseline. In your opinion, what impact would such cuts have on VA services and programs?

Mr. Rhea: NCOA believes that it goes without saying that both the House and Senate proposals would have a dramatic impact on VA's ability to deliver timely and quality services. NCOA finds some of the Senate proposals to be particularly onerous and the Association is unalterably opposed to redefining disability compensation and changing the rules regarding service connection. The Association doesn't like the provisions in both resolutions that would permanently extend savings provisions of OBRA 90 and 93, none more so than that relating to the education benefit. The Senate proposal to increase the contribution for the MGIB is particularly disturbing to our members.

NCOA does not have a crystal ball with sufficient clarity to predict what these budget resolutions would actually do nor does the Association believe that anyone else can make precise predictions on their impact. Too many factors in the equation are constantly changing and budgetary assumptions historically have been less than reliable.

It is clear to NCOA though that VA services and programs will not continue unaltered by freezing discretionary funds or limiting those funds as has been occurring in the last decade. The distressing part of both resolutions is that they ignore the deficit reduction decisions imposed on VA during the last ten years. It's as if those prior decisions now account for nothing.

QUESTION: Several members of the Committee have indicated their belief that the Court of Veterans Appeals is largely responsible for the backlog. Do you agree with this? Do you agree with their obvious contention that veterans were better off prior to judicial review?

Mr. Rhea: The short answer is no to each of your questions Mr. Evans. Several things contribute to the backlog of claims including the Court, but the Court is not the exclusive or even the biggest reason for claims delays. The delays derive from a number of problems ranging from personnel and equipment shortfalls to training and evaluation system inadequacies.

In NCOA's view, there should be no question in anyone's mind that the court has provided a good review from outside the VA for cases that warrant another look. Additionally, like the military review court, the Court of Veterans Appeal has done so with special focus and understanding of veteran law which over the years has become increasingly complex. The Court should be retained without change.

VFW'S ANSWERS TO QUESTIONS
FROM MAY 12, 1995, HEARING
SUBCOMMITTEE ON COMPENSATION, PENSION,
INSURANCE AND MEMORIAL AFFAIRS

QUESTION NUMBER 1

The VSOs put a lot of effort into assisting veterans with their claims. Do you know how much each of your organizations devote to paying for service officers who assist veterans with their claims?

ANSWER NUMBER 1

The VFW's annual budget involves millions of dollars, much of which is expended on community and veterans service programs.

This does not include financial support provided separately by our 55 Departments/States to their distinct veterans service programs nor does it include the voluntary efforts by individual post service officers. The VFW currently has over 10,800 posts world-wide.

QUESTION NUMBER 2

How many hours of formal training do service officers get before you request VA certification? How many hours of annual refresher training do they get? Do you require recurring formal training to retain your organization's endorsement to practice before the VA?

ANSWER NUMBER 2

The VFW conducts a four-phase training program. For our new Department and Assistant Department Service Officers and new employees of our National Veterans Service staff, Phase I consists of a two week course of about 80 hours of instruction in Washington, DC, on VFW policy and procedures and an introduction into the functions and missions of the Department of Veterans Affairs. Phase II consists of follow-up training and assistance by the VFW's Field Representatives who regularly visit Department Service Officers in their respective VA Regional Office location.

Recurring formal training consists of Phase III, a semi-annual, one-week proficiency training conference of classroom instructions for all Department Service Officers, the principal Assistant Department Service Officers, and our National Veterans Service staff. The conference consists of panel presentations, including one with senior Department of Veterans Affairs leadership, medical lectures, and intensive workshops on selected VA issues. One workshop always involves a comprehensive evaluation and testing of the attendees' ability to correctly rate disabilities of a selective body system. The conference instructors are members of the VFW's National Veterans Service staff and Department of Veterans Affairs' staff.

Phase IV consists of continued education courses taken individually by any of our veterans service support personnel and funded by the VFW. This includes courses and seminars at institutions of higher learning which would have a direct bearing or impact on their current job positions.

In addition to our national training program, we publish every two years a *"Guide for Service Officers"* on veterans benefits. This instructional guidebook is developed to primarily assist our post Service Officers and is a comprehensive resource manual to aid them in answering most questions concerning veterans' entitlements and benefits.

We are also actively pursuing with the VA the contemporary use of their developing centralized training programs. This includes the attendance at the VA's Basic Adjudication Course at the Veterans Benefits Administration's Training Academy as part

of our Phase I training and the use of the VA's excellent PC-based, interactive training program ADVISOR. The VA's support to us in this important aspect of training has been commendable.

QUESTION NUMBER 3

What do you think of VA's overhaul of the rating schedule?

ANSWER NUMBER 3

Generally speaking, we support this action. The VFW has provided extensive and comprehensive comments to the VA on all the body systems that have appeared so far in the *Federal Register*, a total of eleven, with three final revisions currently published. If we have a subjective complaint, it is that the review process takes an inordinate amount of time.

VFW'S ANSWERS TO QUESTIONS
ON MAY 12, 1995, HEARING
SUBCOMMITTEE ON COMPENSATION, PENSION,
INSURANCE AND MEMORIAL AFFAIRS
FROM THE HONORABLE LANE EVANS

QUESTION NUMBER 1

You want us to legislate timeliness. What are your recommendations in days by claim category?

ANSWER NUMBER 1

We have consistently testified that 120 days is a reasonable expectation for processing an original compensation claim. The Department of Veterans Affairs' goal has been established at 106 days. With the current progress toward reaching their timeliness goals, we feel previous recommendation to legislate timeliness standards can be placed in abeyance at this time. If degradation should occur in the VA's progress we can resurrect and further discuss this recommendation at a future hearing.

QUESTION NUMBER 2

Section 7 of H.R. 1482, a measure I introduced to improve the programs under this committee's jurisdiction, would allow the payment of accrued benefits for up to two years. Is this consistent with the legislative recommendation in your prepared testimony?

ANSWER NUMBER 2

As stated in our May 12, 1995, testimony, we recommend the repeal of the one-year limitation on payments of accrued benefits in those cases where a claimant's death occurs before the eventual favorable decision and the payment of benefits has been made. Last year, the Chairman of the Board of Veterans appeals dismissed over 400 appeals because of the death of the claimant. With the average time now around four years for a final BVA decision on a case that has been once remanded the limitation to one year for accrued benefits has become a gross injustice. Our recommendation is that title 38, USC, Section 5121(a) needs to be amended to reflect that accrued benefits should be awarded retroactive to the deceased claimant's effective date of claim on the claims at issue. This is the only proper and equitable course of action. However, section 7 of H.R. 1482 is an important step in the right direction.

QUESTION NUMBER 3

The Republican leadership of the House and Senate have just unveiled their budget proposals. In addition to raising certain fees imposed on some veterans and possibly restricting future eligibility for compensation, they would drastically cut VA's discretionary funding. Chairman Kasich's proposal reduces funding by almost \$5.7 billion annually by 2002 relative to CBO's projected baseline. In your opinion, what impact would such cuts have on VA services and programs?

ANSWER NUMBER 3

Veterans entitlements are directly related to the residual effects of injury or disease while serving in the defense of our country. The "trust fund" of paralysis or a loss of limb because of combat is certainly as valuable as the monetary contributions to Social Security. The congressional budget reduction proposals, as currently stipulated, place the whole system of disability compensation in jeopardy. VA compensation is the only form of "disability insurance" available to our active duty military personnel. If our commercial businesses can provide such disability insurance for their employees, surely our Nation can do no less. The budget proposals essentially contradict Lincoln's eloquent

pledge to "care for him who shall have borne the battle and for his widow and his orphan."

QUESTION NUMBER 4

Several members of the Committee have indicated their belief that the Court of Veterans Appeals is largely responsible for the backlog. Do you agree with this? Do you agree with their obvious contention that veterans were better off prior to judicial review?

The Court of Veterans Appeals during its tenure has only highlighted the Department of Veterans Affairs' failures to equitably process veterans' claims as intended by Congress. The Court has not created new laws or regulations that regress the adjudication and rating of claims but has actually done the job that the Board of Veterans' Appeals was created to do. That is, the Court, in its deliberations has shown that the Board and the Regional Offices have failed to correctly apply the statutes and regulations of record through either misinterpretation, selective interpretation or unawareness. The Court has required the Department to consider all issues in each and every case not just those that can be readily disposed. This has been particularly pertinent to recent claims by our older veterans.

The VFW believes that the Veterans' Benefits Improvements Act of 1988 with the establishment of the Court of Veterans Appeals is probably the most notable event that has happened to and for America's veteran in many years. We are thus not inclined to support any proposed changes to that Act, particularly any that may affect the Court as it is presently functioning.



**Response to the Questions
Submitted by the Honorable Terry Everett
Chairman, Subcommittee on Compensation, Pension,
Insurance and Memorial Affairs
for Veterans Service Organizations
Regarding the May 12, 1995 Hearing
By Russell W. Mank, National Legislative Director
Paralyzed Veterans of America**

Question 1. The VSOs put a lot of effort into assisting veterans with their claims. Do you know how much each of your organizations devote to paying for service officers who assist veterans with their claims?

Response: PVA's Veterans Benefits Department is the largest program within the organization. Veterans Benefits has 189 employees, 109 of whom are trained to represent claimants before the Department of Veterans Affairs and/or the Court of Veterans Appeals. In total, PVA has just over 300 employees, thus Veterans Benefits comprises approximately 60 percent of PVA's employee base. The yearly operating budget for Veterans Benefits is approximately \$9 million, which supports PVA's national network of 55 service offices (not counting 4 additional offices supported by one of our chapters), an appeals office at the Board of Veterans' Appeals, a litigation office at the Court of Veterans Appeals, staffing at the Court's pro bono representation program, three medical professionals, four newly created social services offices, and program management personnel. The funds are used for employee salaries and benefits, capital expenditures (e.g. furniture, computer equipment, etc.), supply items, program-related travel, training and education, printing, postage, telephones, and similar operating expenses. All funds are privately raised by PVA.

Question 2. How many hours of formal training do service officers get before you request VA certification?

Response: Accreditation is essential to trainees' on-the-job training as they would be severely hampered if they did not have access to claimants' VA files. Before trainees are permitted to provide representation without supervision, however, they must complete the entire NSO training program, which consists of 2,625 hours of training (70 weeks). NSO Candidates who are unable to successfully complete training and demonstrate proficiency with the newly-acquired skills are released from PVA employment. A copy of our NSO training program outline is enclosed as Attachment A. It is noteworthy that our NSO training program is recognized by VA Vocational Rehabilitation and Education Service for the training of eligible chapter 31 beneficiaries hired by PVA. To date, 17 disabled veterans have successfully completed the training program under the auspices of Chapter 31 and five more are currently in the program under Chapter 31. A copy of our 1988 training agreement with VA is enclosed as Attachment B.

Occasionally, PVA does hire service officers who have previous training and experience in the veterans benefits area. Before hiring these individuals, PVA conducts proficiency testing to determine their level of expertise. This testing allows PVA to design a specific training program for each to ensure their representation skills are at an appropriate level of proficiency. The training provided could be minimal, moderate or extensive, depending on the results of the testing.

Question 3. How many hours of annual refresher training do they get?

Response: PVA NSOs receive an average of 27 hours per year of mandatory refresher training at our annual National Service Officers Continuing Education Program. Attached for review are copies of the program agendas for 1993, 1994, and 1995 (Attachment C). In addition, should a particular NSO's proficiency level come into question, a specific refresher program is designed to address identified areas of concern. Depending on the seriousness of the deficiencies, the NSO will be placed in either a part-time or full-time training status. PVA also has a special training program for 10-12 Senior NSOs each year to help them identify and advocate for the needs of veterans with spinal cord dysfunction. This program provides over 120 hours of instruction and receives accreditation from the University of South Florida; the graduates receive 2 semester hours college credit.

Question 4. Do you require recurring formal training to retain your organization's endorsement to practice before the VA?

Response: PVA's accredited representatives, as a condition of their continued employment, are required to attend scheduled training programs and/or successfully complete structured initial or refresher training.

Question 5. What do you think of the VA's overhaul of the rating schedule?

Response: PVA has been afforded the opportunity to comment on the rating schedule revisions. Some of our comments and recommendations were accepted and incorporated into the revised schedule while others were not. In each case, VA has explained in the Federal Register why it did not accept our views and those of others. At times we have agreed with VA's reasoning and other times not. If PVA finds that some part of the revisions are unfair to claimants during actual application, we will, without hesitation, notify appropriate officials at VA and request relief for those claimants and recommend corrective revisions to the rating schedule. Should our efforts at the administrative level prove unsuccessful, we will notify Congress of the injustice and request a remedy. It is our opinion that VA's rating scheduled review and revision process has been essentially fair to date.

**Response to the Questions
Submitted by the Honorable Lane Evans
Ranking Member of the Subcommittee on Compensation
Pension, Insurance and Memorial Affairs
Regarding the May 12, 1995 Hearing
By Russell W. Mank, National Legislative Director
Paralyzed Veterans of America**

Question 1. If as you suggest BVA members are outplaced at regional offices and participate in training R.O. staff, wouldn't that lead to different interpretations and different results rather than the consistency we desire?

Response: No. Consistency should be measured in terms of the extent to which the VA complies with the law. When the U.S. Court of Veterans Appeals was created, the BVA became the inferior tribunal -- it is no longer the "Supreme Court of Veterans Benefits." The U.S. Court of Veterans Appeals says what the law is and the BVA and VA regional offices are required to follow the law as pronounced by the Court. The BVA member, whether in Washington, D.C. or outplaced at the VA regional office must comply with the law. Because his or her decisions will be subject to judicial review, the BVA member outplaced at the VA regional office will be directly responsible for ensuring that all benefits decisions rendered in his or her jurisdiction are in compliance with the law. This direct oversight, which is lacking under the current organizational chart, will make the system as a whole more accountable. Outplacing BVA members to the VA regional office will greatly improve the VA benefits adjudication system and will save tax dollars.

Question 2. The Republican leadership of the House and Senate have just unveiled their budget proposals. In addition to raising certain fees imposed on some veterans and possibly restricting future eligibility for compensation, they would drastically cut VA's discretionary

funding. Chairman Kasich's proposal reduced funding by almost \$5.7 billion annually by 2002 relative to CBO's projected baseline.

In your opinion, what impact would such cuts have on VA services and programs?

Response: We believe it will have a serious impact on the VA's ability to accomplish its mission.

Question 3. Several members of the Committee have indicated their belief that the Court of Veterans Appeals is largely responsible for the backlog.

Do you agree with this?

Do you agree with their obvious contention that veterans were better off prior to judicial review?

Response: No! Here are our reasons for saying so.

While we do not agree with all of the decisions of the CVA and the Federal Circuit, we can still state unequivocally that veterans are better off now than before judicial review. Before the VJRA, consistency did not exist and the VA did little to promote a claimant's participation in the adjudication process. While these still remain problems, we hope that continued litigation before the courts will correct any remaining troubles.

The CVA is not the cause of the VA's backlog -- the VA is the cause of the VA's backlog. A review of almost any congressional oversight hearing evaluating VA's claims adjudication performance, which were conducted before the passage of the VJRA, shows that VA has had a historical backlog problem. See S. Rep. No. 342, 100th Cong., 2nd Sess. 30-31 (1988) (VA testifies, before Congress granted veterans the right to judicial review, that as of January 1988, it was only meeting 5 of its 28 standards for measuring timeliness).

With the advent of judicial review, the VA and the BVA are now, and for the first time, actually being forced by the CVA to comply with the requirements of the law. See *L. Hagel & M. Horan, Five Years Under the Judicial Review Act: The VA is Brought Kicking and Screaming Into The World Of Meaningful Due Process*, 46 Me. L. Rev. 43, 46-51 (1994). If delay is the price that veterans, dependents and survivors must pay in order to assure fully developed records and VA compliance with the "rule of law" then that is a price that must be paid.

Because of judicial review, the following VA practices that existed **before** judicial review are now no longer permissible:

- (1) the VA can no longer deny claimed benefits based on the unreviewable off-the-record medical judgments of its adjudicators;
- (2) the VA can no longer deny benefits without pointing to evidence that **actually** appears in the record to support its decisions;
- (3) VA can no longer ignore a claimant's personal hearing testimony but now must evaluate that testimony as evidence and make proper credibility.

See *Judicial Review Legislation: Hearing Before the Committee on Veterans' Affairs of the U.S. Senate on S. 11, The Proposed Veterans Administration Adjudication And Judicial Review Act and S. 2292, Veterans' Judicial Review Act*, 100th Cong., 2d Sess. 649 (1988) (in written response to senate questions the VA admitted the existence of these expedient adjudication practices).

Finally, Congress' creation of the CVA has made it possible for veterans and others claiming VA benefits to have relatively easy access to judicial review, to assure VA compliance with its governing statutory law, its compliance with its own regulations, and provide a forum to test the substantive and procedural validity of VA regulations, practices and procedures. While a claimant who has been denied benefits by the VA may not be happy with the denial, the claimant is able to tell when he or she has been fairly treated by the VA. The availability of judicial review to test the VA's substantive and procedural decisions promotes fair treatment for all VA claimants.

ATTACHMENT A

NATIONAL SERVICE OFFICER TRAINING PROGRAM OUTLINE

| <u>Part</u> | <u>Subject Matter</u> | <u>Time Frame</u> |
|-------------|--|-------------------|
| I | Headquarters Orientation | 1 week |
| II | Field Office Orientation | 2 weeks |
| III | General Provisions/Basic Entitlements | 5 weeks |
| IV | Claims & Evidence | 5 weeks |
| ** | Sectional Review | 1 week |
| V | Service Connection/Protection | 3 weeks |
| VI | Health Care Eligibility, Benefits and Services | 6 weeks |
| ** | Sectional Review | 1 week |
| VII | Rating Schedule | 6 weeks |
| VIII | Rating Considerations and Procedures | 3 weeks |
| IX | SMC/Special Benefits | 4 weeks |
| X | Due Process/Appeals/COVA | 4 weeks |
| ** | Sectional Review | 1 week |
| ** | Mid-Term Review and Application, plus Technical Examination | 1 week |
| XI | Waivers | 2 weeks |
| XII | Effective Dates of Entitlement | 2 weeks |
| XIII | Income, Net Worth, and Apportionments | 2 weeks |
| XIV | Discontinuances, Reductions, Adjustments, Resumptions | 3 weeks |
| ** | Sectional Review | 1 week |

| <u>Part</u> | <u>Subject Matter</u> | <u>Time Frame</u> |
|-------------|--|-------------------|
| XV | Conditions Affecting Entitlement/Guardianship/Institutional Awards | 2 weeks |
| XVI | Accrued & Burial Benefits | 2 weeks |
| XVII | Concurrent Benefits/Elections | 1 week |
| ** | Sectional Review | 1 week |
| XVIII | Education - Chapter 31 | 2 weeks |
| XIX | Education - Chapter 35 | 1 week |
| XX | Education - Chapters 30 & 32 | 1 week |
| XXI | Loan Guaranty | 1 week |
| XXII | Insurance | 1 week |
| ** | Sectional Review | 1 week |
| ** | Final Review and Technical Examination | <u>2 weeks</u> |
| | Total | 70 weeks |

ATTACHMENT B

ON-JOB TRAINING PROGRAM FOR
NATIONAL SERVICE OFFICERS
PARALYZED VETERANS OF AMERICA

SECTION I - THE PROGRAM

A. **JOB DESCRIPTION:** The purpose of this position is to learn the duties and responsibilities of an NSO (National Service Officer) with the PVA (Paralyzed Veterans of America). An introductory one (1) week period of training is conducted at PVA headquarters. The remaining training will be supervised in a field office designated by the AED for Veterans Benefits. Under the direction of a qualified NSO, the candidate learns how to advise and assist veterans, their dependents and survivors in presenting claims for the complete range of benefits to which they may be entitled through the Veterans Administration as well as other claims for benefits to which they may be entitled under Federal, State or local laws; to evaluate the validity of claims by reviewing legislation, regulations, and precedents and by studying veterans' medical reports and service histories; to obtain claimants' powers of attorney; to prepare claim forms and briefs and assemble pertinent evidence; to request hearings before proper Government boards and orally present briefs; to review board decisions to decide whether appeals are warranted; to advise veterans on programs and services for which they may be eligible, working in cooperation with the Veterans Administration and other Government agencies; to participate in or initiate civil functions such as panel discussions and radio programs to acquaint the public with VA services and rights and benefits of veterans and dependents as well as providing information regarding assistance that the PVA can provide. Training will consist of a combination of prescribed study materials and practical application of these materials in day-to-day operations.

B. **HOURS OF WORK:** 7 hours per day; 35 hours per week.

C. **LENGTH OF TRAINING PROGRAM:** The training program will generally not exceed 16 months. However, if based on individual circumstances beyond the candidate's control the candidate is precluded from achieving the desired skill level within the allocated time frame, training time may be extended.

D. TRAINEE WAGE SCALE AND SUBSISTENCE ALLOWANCE

Monthly Subsistence Allowance

| <u>Training</u> | <u>Monthly</u> | <u>VA</u> |
|-----------------|----------------|--------------------|
| <u>Period</u> | <u>Wage</u> | <u>Monthly</u> |
| | | <u>Subsistence</u> |
| | | <u>Payment</u> |
| 1st 4 months | \$1,333 | \$117 |
| 2nd 4 months | 1,358 | 92 |
| 3rd 4 months | 1,383 | 67 |
| 4th 4 months | 1,408 | 42 |

The journeyman wage is \$1,450 per month. The monthly rate of subsistence allowance payable is subject to change based on Congressional action or on adjustment in trainee or journeyman wages.

The candidate will receive subsistence allowance during the leave and compensation time as follows:

| | | |
|--------------|----------------------------------|---------|
| Annual Leave | 1st year | 12 days |
| | 2nd year | 16 days |
| | 3rd year | 20 days |
| | 4th & thereafter | 24 days |
| Sick Leave | 4 1/2 hours per pay period. | |
| Comp Time | extra hours, weekends, holidays. | |

E. NATIONAL SERVICE OFFICER ON-JOB TRAINING PROGRAM OUTLINE

| <u>Training Program Subject Areas</u> | <u>Estimated</u> |
|--|------------------|
| | <u>Hours</u> |
| I. <u>Introduction</u> | 35 |
| PVA Policies and Procedures - VA Overview - Privacy and Freedom of Information Acts - Historical Background of PVA, PVA Office Procedures, etc. | |
| II. <u>General Provisions</u> | 105 |
| Definitions and Terms - War Periods - Administration Issues, etc. | |

| | | |
|-------|--|-----|
| III. | <u>Basic Entitlement</u> | 105 |
| | Veterans - Widows - Children - Parents - Relationship Issue - Basic Entitlement Determinations, etc. | |
| IV. | <u>Due Process</u> | 70 |
| | General Consideration - Appellate Procedures - Contested Claims - Administration Reviews, etc. | |
| V. | <u>Claims and Evidence</u> | 105 |
| | Claims/Application forms - Evidence Requirements - Martial/Child Relationships, etc. | |
| VI. | <u>Effective Dates</u> | 210 |
| | Entitlement - Discontinuance - Adjustment and Resumption (Veteran/Widows/Children/Parents, etc.) | |
| VII. | <u>Anatomy/Terminology/Physiology</u> | 140 |
| | The American Association of Medical Assistants, Inc. Guided Study Program with Tapes and Tests. | |
| VIII. | <u>Rating Consideration</u> | 560 |
| | Pension - Service Connection - Ratings and Rating Procedures - the Rating Schedule, etc. | |
| IX. | <u>Hospital Benefits</u> | 140 |
| | Available Medical and Dental Care - Eligibility Determinations - Priorities for Hospitalization, etc. | |
| X. | <u>Income/Net Worth/Apportionment</u> | 70 |
| | Old Law - Section 306 - Improved Pension - Apportionment, Development | |
| XI. | <u>Special Benefits</u> | 70 |
| | Available Benefits - Eligibility/Entitlement Criteria, etc. | |
| XII. | <u>Accrued/Burial Benefits</u> | 105 |
| | Basic Entitlement - Benefits - Claims - Evidence - Conditions Governing Payments, etc. | |

| | | |
|--------|---|------|
| XIII. | <u>Conditions Affecting Entitlement</u> | 70 |
| | Hospitalization - Incompetency - Income/Net Worth - Dependency Changes | |
| XIV. | <u>Concurrent Benefits and Elections</u> | 70 |
| | Compensation/Pension - Education Programs - VA/Other Benefits, etc. | |
| XV. | <u>Guardianship/Institutional Awards/Protection</u> | 35 |
| | Payees of Awards - Incompetents - Minors - Protection of Service Connection/Rate of Payment, etc. | |
| XVI. | <u>Education Benefits</u> | 420 |
| | Under Chapter 30, 31, 32, 34, and 35 | |
| XVII. | <u>Loan Guaranty</u> | 70 |
| | Entitlement Criteria - Provisions - Restrictions - Liability, etc. | |
| XVIII. | <u>Insurance</u> | 35 |
| | USGLI - NSLI- SGLI - VMLI - General Provisions | |
| | TOTAL HOURS | 2415 |

The training program is 69 weeks at 35 hours per week.

F. RELATED INSTRUCTION AND TRAINING MATERIALS:

(1) Attendance at PVA's annual training seminar is required if scheduled during candidate's training period, unless an exception is made in an individual case by the National Service Director because of unforeseen circumstances.

(2) Academic instruction will be provided as needed by the individual. Determination of courses to be taken will be based upon findings in counseling and in consultation with VRS (vocational rehabilitation specialist) and supervising NSO. Instruction may be provided in colleges, in below college level institutions, or by individual instructors, as appropriate.

(3) Current editions of books and publications listed below may be authorized for National Service Officer candidates. When the current edition is not available, another edition of the same book may be used if the trainee agrees to the substitution. The books on this list should generally meet the needs of National Service Officer candidates for reference material during the period of training. These references are normally available in university bookstores.

Beeson, Paul B. and McDermott, Walsh, eds., Cecil Textbook of Medicine, Philadelphia, PA: W.B. Saunders Co., 2 volumes

Department of Medicine and Surgery, Physicians' Guide: Disability Evaluation Examination, Washington, DC: Veterans Administration, March 1, 1985, and Information Bulletin 11-56

Diagnostic and Statistical Manual - Mental Disorders, Washington, DC: American Psychiatric Association

Dorland, William A.N., Dorland's Illustrated Medical Dictionary, Philadelphia, PA: W.B. Saunders Co.

Holvery, D.N. and Talbott, J.H., The Merck Manual of Diagnosis and Therapy, Rockway, N.J.

Anthony, C.P. and Kolthoff, N., Textbook of Anatomy and Physiology, St. Louis, MO: C.V. Mosby Co.

Pansky, B., Review of Gross Anatomy, Riverside, N.J.: MacMillan Publishing Co.

Code of Federal Regulations 38, Pensions, Bonuses and Veterans' Relief, Washington, DC: Superintendent of Documents, U.S. Government Printing Office

Webster's New Collegiate Dictionary

Roget's Thesaurus

Physician's Desk Reference, Medical Economics, Inc.

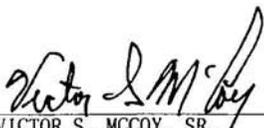
(4) With the assistance of the VRS, the supervising NSO and the NSO candidate will prepare VA Form 28-1905m, Request for Supplies, listing the reference books needed for training. It is essential that these books be timely secured. If the veteran is attending a college for related instruction, he or she may order the reference books approved on VA Form 28-1905m at the college bookstore in the same manner as books for the related courses. If the references are not available, arrangements should be made with another university bookstore to issue the books to the veteran. In the unusual instance in which these reference books are unavailable at bookstores with which agreements are in effect, either an agreement will be negotiated with a bookstore carrying these reference books or other books containing the necessary information will be authorized.

(5) If additional books and other supplies are requested, approval may be granted under standard supply criteria if the VA determines the requested items are necessary in the trainee's individualized program.

G. EMPLOYEE BENEFITS: Paralyzed Veterans of America, Personnel Policies and Procedures Manual, Section III, sets forth employee benefits regarding leave and fringe benefits. This manual is available to the candidate during his or her 5-day orientation program at PVA National Headquarters and from the supervising NSO in the designated field office where the candidate undergoes the balance of his or her training.

H. OTHER ADMINISTRATIVE POLICIES: With few exceptions, the place of training and later employment will be the same. Transfer will be made by joint decision of appropriate VA and PVA personnel. In these cases, payment of the veteran's transportation will be authorized by the VA under 38 CFR 21.370, 21.372 and 21.374. PVA will pay the cost of transportation for the veteran's dependents as necessary. When starting training, a 5-day orientation program will be conducted at PVA National Headquarters, Washington, DC. The veteran's transportation to this orientation program and to the annual training seminar will be borne by the Veterans Administration under existing regulations. Air travel to this orientation program and to the annual training seminar may be paid, if appropriate. The VA may not pay, however, for travel to PVA meetings, such as conventions.

I. CONTRACT TO TRAIN THE VETERAN: VA Form 22-1904, Agreement to Train on the Job Disabled Veterans, will be executed in each case in which a veteran is entered into NSO training under this program.


 VICTOR S. MCCOY, SR.
 AED for Veterans Benefits
 National Headquarters
 Paralyzed Veterans of American


 R.J. VOGEL
 Chief Benefits Director
 Department of Veterans Benefits
 Veterans Administration

MAR - 1 1986

ATTACHMENT C

PARALYZED VETERANS OF AMERICA

VETERANS BENEFITS DEPARTMENT

NATIONAL SERVICE OFFICERS
CONTINUING EDUCATION PROGRAM
AGENDA

JUNE 28—JULY 1, 1993

RENO HILTON ▶ RENO, NEVADA

NEVADA

| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno Hilton Reno, Nevada | | | | | | |
|---|--|----------|-----------|----------|---------|----------|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:30AM to 9:15 | General Session - Opening <i>Richard F. Johnson, National President; Gordon H. Mansfield, Executive Director</i> <i>Richard L. Gloefby, Associate Executive Director; Jeffrey A. Dolzal, Director of Field Services</i> | | | | | |
| 9:15 to 9:30 | Welcoming Comments <i>U.S. Department of Veterans Affairs Officials</i> <i>Mr. Gary R. Whitfield, Director, Reno VAMC</i> <i>Ms. E. R. Straub, Director, Reno VARO</i> | | | | | |
| 9:30 to 10:00 | VA and PVA A Partnership for Tomorrow <i>Dr. Joseph E. Binard</i> <i>National Director</i> <i>VA Spinal Cord Injury Services</i> | | | | | |
| 10:00 to 10:15 | Break | | | | | |
| 10:15 to 10:45 | Veterans Consortium Pro Bono Program <i>Ronald W. Scholtz, Esq.</i> <i>Director</i> <i>Care Evaluation and Referral</i> | | | | | |
| 10:45 to 11:45 | Americans with Disabilities Act <i>Douglas K. Volmer</i> <i>Associate Executive Director - Government Relations</i> | | | | | |
| 11:45 to 1:15PM | Lunch | | | | | |

Monday, June 28, 1993

| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno Hilton Reno, Nevada | | | | | | |
|--|---|---|--|--|---|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:15PM to 2:15 | Case Management by David F. Graham National Staff Assistant | Wheelchair Standards and Prosthetics by Ed Nowak Deputy Director VA P&S and Jeffrey A. Dostal Director of Field Services | Spinal Cord Injury - the Full Range of Care by Robert R. Young, M.D. Professor and Vice Chairman Department of Neurology University of California, Irvine | | Computers by Joshua Silverman Network Support Manager PVA Management Information Systems | Social Services by Melvin Tuzman, M.S.W. Director of Social Services EPVA |
| 2:15 to 3:15 | Special Monthly Compensation by Luther Clements National Field Director | NSO Role in SCI Care by Richard Doherty Senior Benefits Advocate John Ward Senior Benefits Advocate Cherene Garner National Service Officer III | | | | |
| 3:15 to 3:30 | Break | | | | | |
| 3:30 to 4:30 | Social Services by Melvin Tuzman, M.S.W. Director of Social Services EPVA | Case Management by David F. Graham National Staff Assistant | Wheelchair Standards and Prosthetics by Ed Nowak Deputy Director Jeffrey A. Dostal Director of Field Services | Special Monthly Compensation by Luther Clements National Field Director | Medical Records Review by R. Henry Bodenbender M.D. Director of Medical Services | Eligibility Verification Reports and Means Testing by Linda Hill Senior National Service Officer |
| 4:30 to 5:30PM | | Medical Records Review by R. Henry Bodenbender M.D. Director of Medical Services | Case Management by David F. Graham National Staff Assistant | NSO Role in SCI Care by Richard Doherty Senior Benefits Advocate John Ward Senior Benefits Advocate Cherene Garner National Service Officer III | Wheelchair Standards and Prosthetics by Ed Nowak Deputy Director VA P&S and Jeffrey A. Dostal Director of Field Services | Rating Exercises by Crank Crank National Staff Assistant |

Monday, June 28, 1993

| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno Hilton Reno, Nevada | | | | | | |
|--|---|---|---|---|--|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:30AM to 9:30 | Evidence - Weight and Probity by Lawrence R. Boyd, Esq. PVA Deputy General Counsel | Evidence - Weight and Probity by William McIsaac, Esq. PVA Litigation Attorney | Computers by John Stierman Navy PVA Maintenance Information Systems | Social Services by Adrian Tancos, M.S.W. Director of Social Services EPVA | Spinal Cord Injury - the Full Range of Care by Robert R. Young, M.D. Professor and Vice Chairman Department of Neurology University of California, Irvine | |
| | | | | | | |
| 9:30 to 10:30 | | | | | | |
| 10:30 to 10:45 | Break | | | | | |
| 10:45 to 11:45 | Bating Review Procedures by Sue Adams Senior National Service Officer | Eligibility Verification Reports and Means Testing by Linda Hill Senior National Service Officer | Hospital Reporting by Angela Soren R.N., B.S.N., C.R.N. Associate Director of Medical Services | Case Management by David F. Graham National Staff Assistant | Special Monthly Compensation by Luther Clementz National Field Director | NSO Role in SCI Care by Richard Doherty Senior Field Director John Wood Senior Benefits Advocate Clarence Gettine National Service Officer III |
| | | | | | | |
| 11:45 to 2:00PM | Luncheon Special Guest Speaker The Honorable John J. Farley, Associate Judge, United States Court of Veterans Appeals | | | | | |

Tuesday, June 29, 1993

| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno Hilton Reno, Nevada | | | | | | |
|---|---|---|--|--|--|---|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 2:00PM to 3:00 | | Spinal Cord Injury - the Full Range of Care by Robert R. Trone, M.D. Professor and Chairman Department of Neurology, Irvine University of California, Irvine | Evidence - Weight and Probity by Lawrence B. Hazel, Esq. PMA Deputy General Counsel | Evidence - Weight and Probity by William M. Schneider, Esq. PMA Litigation Attorney | Case Management by David F. Graham National Staff Assistant Social Services by Melvin Tompkins, M.S.W. Director of Social Services EPA | Computers by Joshua Silverman Network Support Manager PMA Management Information Systems |
| 3:00 to 4:00 | | | | | | |
| 4:00 to 4:15 | Break | | | | | |
| 4:15 to 5:15PM | Personal Hearings by James A. Sifers Acting National Service Director | Rating Review Procedures by Steve Anderson Senior National Service | NSO Role in SCI Care by Richard DeHoyter Senior Benefits Advocate Senior Benefits Advocate Clarence Gerrie National Service Officer III | Wheelchair Standards and Prosthetics by Ed Nowak Design Director Myron A. Dolezal Director of Field Services | Social Services by Melvin Tompkins, M.S.W. Director of Social Services EPA | Case Management by David F. Graham National Staff Assistant |

Tuesday, June 29, 1993

| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno Hilton Reno, Nevada | | | | | | |
|--|--|--|---|--|--|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:30AM to 9:30 | Computers by Artha Sherman Network Support Manager PVA Management Information Systems | Personal Hearings by James Sifers Active National Service Director | Rating Review Procedures by Steve Arntsen Senior National Service Officer | Medical Records Review by R. Hines M.D. Director of Medical Services | Evidence - Weight and Probity by Lawrence B. Hoyt, Esq. PVA Deputy General Counsel | Evidence - Weight and Probity by William McIsander, Esq. PVA Litigation Attorney |
| 9:30 to 10:30 | | Hospital Reporting by Annick Sores R.N., B.S.N., C.R.R.N. Associate Director of Medical Services | Special Monthly Compensation by Linda Farnsworth National Field Director | Eligibility Verification Reports and Means Testing by Linda Hill Senior National Service Officer | | |
| 10:30 to 10:45 | Break | | | | | |
| 10:45 to 11:45 | Eligibility Verification Reports and Means Testing by Linda Hill Senior National Service Officer | Appellate Due Process by Fred Miller Director of Appellate Services | Personal Hearings by James Sifers Active National Service Director | Rating Review Procedures by Steve Arntsen Senior National Service Officer | Hospital Reporting by Annick Sores R.N., B.S.N., C.R.R.N. Associate Director of Medical Services | Special Monthly Compensation by Linda Farnsworth National Field Director |
| 11:45 to 1:15PM | Lunch | | | | | |

Wednesday, June 30, 1993

| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno, Nevada | | | | | | |
|--|--|--|--|---|--|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:15PM to 2:15 | Medical Records Review by R. Henry Rosenbender Director of Medical Services | Court Briefing by Michael Horan, Esq. Director of Appellate Litigation | Appellate Due Process by Fred Mullin Director of Appellate Services | Personal Hearings by James A. Sifers Acting National Service Director | Rating Review Procedures by Steve Anderson Senior National Service Officer | Hospital Reporting by Annie Brown R.N., B.S.N., C.R.R.M. Assistant Director of Medical Services |
| 2:15 to 3:15 | Appellate Due Process by Fred Mullin Director of Appellate Services | Special Monthly Compensation by Luther Cornetta National Trial Director | Court Briefing by Michael Horan, Esq. Director of Appellate Litigation | Rating Exercises by Carol Carrick National Staff Assistant | Eligibility Verification Reports and Means Testing by Lynell Hill Senior National Service Officer | Wheelchair Standards and Prosthetics by Ed Nowak Deputy Director Via POCs and Jeffrey A. DiGiacca Director of Field Services |
| 3:15 to 3:30 | Break | | | | | |
| 3:30 to 4:30 | Court Briefing by Michael Horan, Esq. PMA Director of Appellate Litigation | Computers by Joshua Silverman Network Support Manager PMA Information Management Systems | Social Services by Melvin Tonzon, M.S.W. Director of Social Services EPH | Appellate Due Process by Fred Mullin Director of Appellate Services | Personal Hearings by James A. Sifers Acting National Service Director | Medical Records Review by R. Henry Rosenbender Director of Medical Services |
| 4:30 to 5:30PM | NSO Role in SCI Care by Richard Doherty Senior Benefits Associate John Ward Senior Benefits Associate Charles Claver National Service Officer III | | | Court Briefing by Michael Horan, Esq. PMA Director of Appellate Litigation | Rating Exercises by Carol Carrick National Staff Assistant | Rating Review Procedures by Steve Anderson Senior National Service Officer |

Wednesday, June 30, 1993

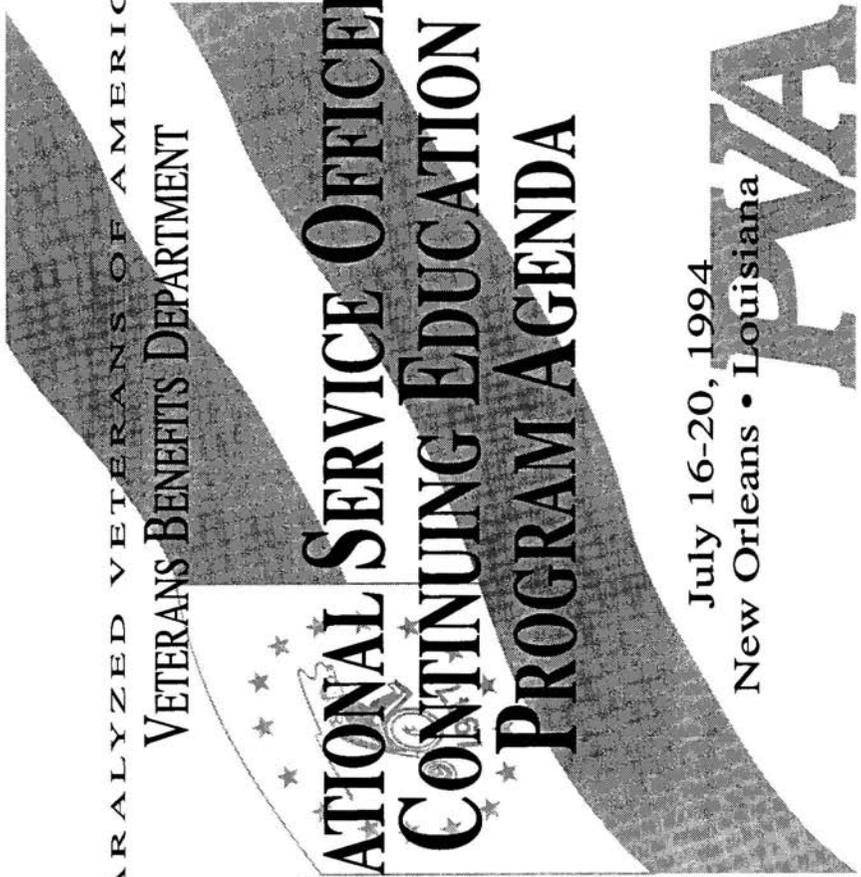
| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno Hilton Reno, Nevada | | | | | | |
|--|---|--|---|--|--|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:30AM to 9:30 | Rating Exercises by Carol Carrick National Staff Assistant | Social Services by Melvin Tangman, M.S.W. Director of Social Services EPWA | Eligibility Verification Reports and Means Testing by Linda Hill Senior National Service Officer | Computers by Joshua Silverman Network Support Manager PIA Management Information Systems | Appellate Due Process by Fred Mallon Director of Appellate Services | Personal Hearings by James N. Sifers Judge National Service Director |
| 9:30 to 10:30 | Hospital Reporting by Angelo Steven R.N., B.S.N., C.R.N. Associate Director of Medical Services | | Rating Exercises by Carole Carrick National Staff Assistant | | Court Briefing by Michael Horan, Esq. PIA Director of Appellate Litigation | Appellate Due Process by Fred Mallon Director of Appellate Services |
| 10:30 to 10:45 | Break | | | | | |
| 10:45 to 11:45 | Wheelchair Standards and Prosthetics by Ed Newark Deputy Director VA FOLD and Right of Access Director of Field Services | Rating Exercises by Carole Carrick National Staff Assistant | Medical Records Review by R. Henry Bodenbender M.D. Director of Medical Services | Hospital Reporting by Angelo Steven R.N., B.S.N., C.R.N. Associate Director of Medical Services | NSO Role in SCI Care by Richard Dohyler Senior Benefits Advocate Senior Benefits Advocate Claims Service National Service Officer III | Court Briefing by Michael Horan, Esq. PIA Director of Appellate Litigation |
| 11:45 to 1:15PM | Lunch | | | | | |

Thursday, July 1, 1993

| National Service Officers Continuing Education Program June 28 - July 1, 1993 Reno Hilton Reno, Nevada | | | | | | |
|--|--|----------|-----------|----------|---------|----------|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:15PM to 3:15 | | | | | | |
| | The Court of Veterans Appeals - Moot Court <i>The Honorable Robert Nelson, Acting Chief Judge</i> <i>The Honorable Lawrence Hagel, Acting Associate Judge</i> <i>The Honorable Ronald W. Scholz, Acting Associate Judge</i> <i>Bonnie Marinelli, Esq., Acting Clerk of the Court</i> <i>Michael Horan, Esq., PVA Director of Appellate Litigation</i> <i>William Meilander, Esq., Acting VA General Counsel</i> | | | | | |
| 3:15 to 3:30 | | | | | | |
| | Break | | | | | |
| 3:30 to 5:00PM | | | | | | |
| | Closing Session <i>Richard L. Gioffaly, AED-VBD and Jeffrey A. Dolzcal, DFS</i> <i>Presentations</i> <i>Open Discussion</i> | | | | | |

Thursday, July 1, 1993

PARALYZED VETERANS OF AMERICA
VETERANS BENEFITS DEPARTMENT



**NATIONAL SERVICE OFFICERS
CONTINUING EDUCATION
PROGRAM AGENDA**

July 16-20, 1994
New Orleans • Louisiana

PVA

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|---|--|----------|-----------|----------|---------|----------|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 5:00PM to 7:00 | | | | | | |
| | <p>Opening Session</p> <p>Richard F. Johnson, National President; Gordon W. Mansfield, National Executive Director; Robert A. Grier, National Director, Veterans Benefits Department; Jeffrey A. Bolzani, Director of Field Services; John D. Church, Jr., Director - New Orleans VA Medical Center; William D. Piliwan, Jr., Director - New Orleans VA Regional Office</p> | | | | | |
| 7:00 to 9:00PM | | | | | | |
| | <p>Welcoming Reception</p> | | | | | |

Saturday, July 16, 1994

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|---|---|----------|-----------|----------|---------|----------|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:00AM to 8:30 | | | | | | |
| | Education and Training Foundation Resources <i>Director - Research and Education</i> | | | | | |
| 8:30 to 10:00 | | | | | | |
| | Health Care Reform <i>Frank Morrone, Associate Executive Director Health Policy Department</i> | | | | | |
| | Break (10:00 - 10:15) | | | | | |
| 10:15 to 12:15PM | | | | | | |
| | Multiple Sclerosis <i>Dr. Steven Brown, M.D. Director of Neurology Service, Department of Veterans Affairs</i> | | | | | |
| | Lunch (12:15 - 1:30) | | | | | |

Sunday, July 17, 1994

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|--|---|---|--|--|--|---|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:30PM to 2:30 | Appellate Due Process Fred Miller Director of Appellate Services | Duty to Assist by Bonnie Marinelli, Esq. USO Attorney and Losa M. Bask, Esq. Representative | Sexual Harassment Robert L. Nelson, Esq. PWA General Counsel | Rating Schedule by Senior Appellate Representative | Computers Andrew McKenzie Senior Software Support Specialist and National Staff Assistant | Special Monthly Compensation Steve Anderson Senior National Service Officer |
| 2:30 to 3:30 | Well Grounded Claims by Michael Moran, Esq. Director of CWA Litigation | Medical Services Update Angela Steves, R.N., Associate Director of Medical Services John P. Ward Senior Benefits Advocate | SCD: Pathophysiology R. Henry Bodenbender, M.D. Director, Medical Services Sharon Duffley, R.N., Associate Director, Medical Services | | | |
| Break (3:30 - 3:45) | | | | | | |
| 3:45 to 4:45 | Special Monthly Compensation by Steve Anderson Senior National Service Officer | Operations by Jeffrey Tolson, Director of Field Services Carol Carrick and David F. Graham, National Staff Assistance | File Reviews Harry Kidger Veterans Law Specialist William Crager Senior Appellate Representative | | Ethics by Lawrence B. Vogel, Esq. PWA Deputy General Counsel | |
| 4:45 to 5:45PM | | Sexual Harassment by Robert L. Nelson, Esq. PWA General Counsel | Clear and Unmistakable Error Ronald Scholz, Esq. Director, Screening Component | Well Grounded Claims by Michael Moran, Esq. Director of CWA Litigation | Operations by Jeffrey Tolson, Director of Field Services Carol Carrick and David F. Graham, National Staff Assistance | Effective Communications Linda E. Blahut, Esq. CWA Litigation Attorney |

Sunday, July 17, 1994

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|---|-----------------------|--|-----------|--|--|---|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:00AM to 9:00 | | Supervision By Larry Mudgett American Management Association/Pedgett-Thompson | | Special Monthly Compensation By Steve Anderson Senior Service Officer | Medical Services Update By Angela Stone, R.N., B.S.N., C.R.R.N., Associate Director of Medical Services and Senior Benefits Advocate | Well Grounded Claims By Michael Moran, Esq. Director of COA Litigation |
| 9:00 to 10:00 | | | | | Sexual Harassment By Robert L. Nelson, Esq. PIA General Counsel | Prosthetics By Jeffrey A. Dolesal Director of Field Services |
| | Break (10:00 - 10:15) | | | | | |
| 10:15 to 11:15 | | Supervision By Larry Mudgett American Management Association/Pedgett-Thompson | | Operations By Jeffrey A. Dolesal Director of Field Services, Carolyn Erick and David F. Graham National Staff Assistants | Rating Schedule By Paul Lutz Senior Appellate Representative | Appellate Due Process By Fred Miller Director of Appellate Services |
| 11:15 to 12:15PM | | | | File Reviews By Merryl Wigger Veterans Law Specialist William Greger Senior Appellate Representative | Well Grounded Claims By Michael Moran, Esq. Director of Appellate Litigation | |
| | Lunch (12:15 - 1:30) | | | | | |

Monday, July 18, 1994

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|---|--|---|--|---|---------|----------|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:30PM to 2:30 | Rating Schedule By Senior Appellate Representative | SCD: Pathophysiology By R. Henry Bodenbender, M.D., Director, Medical Services and Suzanne Duffley, P.H., Associate Director, Medical Services | Computers Andrew McKenzie Senior Support Specialist, MIS Carol Carrick, Regional Staff Assistant | Building Better Supervisory and Management Skills Larry Nibgett American Management Association/Budget-Thompson | | |
| 2:30 to 3:30 | Medical Services Update By Angela Stevens, P.H., Associate Director of Medical Services John P. Ward, Senior Benefit Advocate | Clear and Unmistakable Error By Ronald Scholz, Eng, Director Screening Component | | | | |
| Break (3:30 - 3:45) | | | | | | |
| 3:45 to 4:45 | Operations By Jeffrey Dolzal Director of Field Operations Carol Carrick David and Graham National Staff Assistants | Ruman Resource Management By Colleen Laram, Director of Human Resource Management | Well Grounded Claims By Michael Moran, Eng, Director, COVA Litigation | Building Better Supervisory and Management Skills Larry Nibgett American Management Association/Budget-Thompson | | |
| 4:45 to 5:45PM | Clear and Unmistakable Error By Ronald Scholz, Eng, Director Screening Component | Rating Schedule By Senior Appellate Representative | Effective Communication By Linda E. Hubert, Eng, COVA Litigation Attorney | | | |

Monday, July 18, 1994

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|---|--|---|--|--|--|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 7:15AM to 9:15 | Breakfast Guest Speaker - John Vogel, Under Secretary for Veterans Benefits | | | | | |
| 9:15 to 10:15 | Well Grounded Claims by Michael Moran, Esq. Director, COVA Litigation | Medical Services Update by Angela Steen, P.N., Associate Director of Medical Services John P. Ward Senior Benefits Advocate | Special Monthly Compensation by Steve Anderson Senior National Service Officer | Sexual Harassment by Robert J. Adams, Esq. PVA General Counsel | Appellate Due Process by Fred Wilson Director of Appellate Services | SCD: Pathophysiology by R. Henry Bloomender, Director, Medical Services Suzanne Diffey, R.N., Associate Director, Medical Services |
| 10:15 to 11:15 | Duty to Assist by Bonnie Marinelli, Esq. VVA Deputy Attorney Lora Mays, Esq., Representative | Effective Communication by Linda E. Baum, Esq., COVA Litigation Attorney | Prosthetics by Jeffrey A. Polzani Director, Veterans Services ARD Forum by Richard A. Giocchetti Director, Veterans Benefits Department | | Clear and Unmistakable Error by Ronald Solis, Esq. Director, Screening Component | |
| Break (10:00 - 10:15) | | | | | | |
| 11:30 to 12:30PM | Ethics by Lawrence B. Mayer, Esq., PVA Deputy General Counsel | | Court of Veterans Appeals by Michael Moran, Esq., Director of COVA Litigation | | Human Resource Management by Colleen Larsen Director, Resource Management | Operations by Jeffrey Polzani Director of Field Services Carole Carrick David F. Orndam, National Staff Assistants |
| Lunch (12:30 - 1:45) | | | | | | |

Tuesday, July 19, 1994

| National Service Officers Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|--|--|---|--|---|---|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:45PM to 2:45 | <p>Effective Communication By Linda E. Blahut, Esq. COA Litigation Attorney</p> | <p>Computers By Andres Rodriguez Senior Software Support Specialist, Carol Carrick, Manager, and Assistant</p> | <p>Appellate Due Process By Fred Miller Director of Appellate Services</p> | <p>Human Resource Management By Colleen Larsen Director of Human Resource Management</p> | <p>Court of Veterans Appeals By Michael Novak, Esq. Director of COVA Litigation</p> | <p>Sexual Harassment By Robert L. Nelson, Esq. VIA General Counsel</p> |
| 2:45 to 3:45 | <p>SCD Pathophysiology By R. Henry Lambender, M.D. Director, Medical Services and Susanne Duffley, R.N., Associate Director, Medical Services</p> | | | <p>Medical Services Update By Angela Steven, R.N., B.S.N., C.R.N., Associate Director of Medical Services and John P. Ward Senior Advocate</p> | <p>File Reviews By Harry Kridger Veterans Law Specialist William Creager Senior Appellate Representative</p> | <p>Rating Schedule By Paul Jovan Senior Appellate Representative</p> |
| Break (3:45 - 4:00) | | | | | | |
| 4:00 to 5:00PM | <p>Human Resource Management By Colleen Larsen Director of Human Resource Management</p> | <p>Court of Veterans Appeals By Michael Novak, Esq. Director of COVA Litigation</p> | <p>Prosthetics By Jeffrey A. Dolzell, Director of Field Services</p> <p>AED Forum By Richard L. Giocelly, Director, Director, Veterans Benefits Department</p> | <p>Duty to Assist By Bonnie Matrelli, Esq. VWP Attorney Lora M. Bath, Esq., Appellate Representative</p> | <p>Effective Communication By Linda E. Blahut, Esq. COA Litigation Attorney</p> | <p>Medical Services Update By Angela Steven, R.N., B.S.N., C.R.N., Associate Director of Medical Services and John P. Ward Senior Benefits Advocate</p> |

Tuesday, July 19, 1994

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|---|--|---|--|---|---|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:00AM to 9:00 | Computers by Andrew McKenzie Senior Software Support MTS Specialist, Carol Carrick, National Staff Assistant | Special Monthly Compensation by Steve Anderson Senior Staff Service Officer | Duty to Assist by Bonnie Marinelli, Esq. VMD Attorney Lora M. Rath, Esq., Appellate Representative | Appellate Due Process by Fred Wilson Director of Field Services | Prosthetics by Jeffrey Colwell Director of Field Services AED Forum by Richard L. Gierfelty Associate Executive Director, Veterans Benefits Department | File Reviews by Harry Midge Veterans Law Specialist William Creeger Senior Appellate Representative |
| 9:00 to 10:00 | | | Court of Veterans Appeals by Nicholas Ryan, Esq. Director of COVA Litigation | | Clear and Unmistakable Error by Ronald Scholz, Esq. Director, Screening Component | Human Resource Management by Colleen Orson Director, Human Resource Management |
| Break (10:00 - 10:15) | | | | | | |
| 10:15 to 11:15 | Sexual Harassment by Robert Weison, PVA General Counsel | Prosthetics by Jeffrey Colwell, Director of Field Services AED Forum by Richard L. Gierfelty, Associate Executive Director, Veterans Benefits Department | Rating Schedule by Paul Ross Senior Appellate Representative | Effective Communication by Linda E. Bluhut, Esq. COVA Litigation Attorney | SCD: Pathophysiology by R. Henry Bodenbender, Director, Medical Services Suzanne Blair, B.S.N., Associate Director, Medical Services | Computers by Andrew McKenzie Senior Software Support Specialist, MTS Carol Carrick, National Staff Assistant |
| 11:15 to 12:15PM | Court of Veterans Appeals by Michael Ryan, Esq. Director of COVA Litigation | File Reviews by Harry Midge, Veterans Law Specialist William Creeger Senior Appellate Representative | Operations by Jeffrey Colwell Director of Field Services Carol Carrick and David P. Graham, National Staff Assistants | Clear and Unmistakable Error by Ronald Scholz, Esq. Director, Screening Component | Duty to Assist by Bonnie Marinelli, Esq. VMD Attorney Lora M. Rath, Esq., Appellate Representative | |
| Lunch - SBA Luncheon (12:15 - 1:45) | | | | | | |

Wednesday, July 20, 1994

| National Service Officer Continuing Education Program July 16 - July 20, 1994 Sheraton New Orleans New Orleans, Louisiana | | | | | | |
|---|---|--|--|--|--|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:45PM to 2:45 | Prosthetics by Jeffrey Nelson Director of Field Services | Appellate Due Process Fred Wullen Director of Appellate Services | Human Resource Management Colleen Larsen Director of Human Resource Management | Computers by Andrew Masie Senior Software Support Specialist, MIS and Carolyn Wick National Staff Assistant | Special Monthly Compensation by Steve Johnson Senior National Service Officer | Court of Veterans Appeals by Michael Moran, Esq. Director, VBA Litigation |
| | AED Forum Richard L. Goffely Assistant Director, Veterans Benefits Department | | | | | |
| 2:45 to 3:45 | File Reviews Harry Widger, Veterans Law Specialist and William Weinger Senior Appellate Representative | SCD: Pathophysiology R. Henry Bodenbender, M.D., Director, Medical Services and Suzanne Dilling, R.N., Associate Director, Medical Services | | | | |
| | Duty to Assist by Bonnie Marinelli, Esq. VBA Attorney and Lora M. Bath, Esq., Appellate Representative | | | | | |
| Break (3:45 - 4:00) | | | | | | |
| Closing Session | | | | | | |
| 4:00 to 5:30PM | VBA Reception (7:00 - 9:00) | | | | | |

Wednesday, July 20, 1994

| | | | | | | |
|---|--|----------|-----------|----------|---------|----------|
| <p align="center">National Service Officer Continuing Education Program July 15 - 19, 1995 Doubletree Hotel - Dallas, Texas</p> | | | | | | |
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 6:00 PM to 7:00 PM | <p align="center">Opening Session</p> <p align="center"> Richard Grant, National President; Gordon H. Mansfield, National Executive Director; John C. Bollinger, National Deputy Executive Director; Richard L. Glotfelty, Associate Executive Director - Veterans Benefits Department; Ronald W. Scholz, National Service Director; Jeffrey A. Dolezal, Director of Field Services </p> | | | | | |
| <p align="center"> Veterans Benefits Department Welcoming Reception Lincoln West Ballroom 7:00 PM to 9:00 PM </p> | | | | | | |

Saturday, July 15, 1995

| National Service Officer Continuing Education Program July 15 - 19, 1995 Doubletree Hotel - Dallas, Texas | | | | | | |
|---|---|--|---|--|---------|----------|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:00 AM to 8:15 AM | <p align="center">Opening Remarks Jeffrey A. Dolezal, Director of Field Services Lincoln 1,2,3 East Meeting Room</p> | | | | | |
| 8:15 AM to 9:15 AM | <p align="center">Panel Discussion - VBD Program Directors Ronald W. Scholz, National Service Director - Moderator Fredrick J. E. Mullen, Sr., Appellate Services; Michael P. Horan, COVA Litigation Service; Jeffrey A. Dolezal, Field Services; R. Henry Bodenbender, M.D., Medical Services; Gordon J. Casebolt, A.C.S.W., Social Work Services Lincoln 1,2,3 East Meeting Room</p> | | | | | |
| Break (9:15 - 9:30) | | | | | | |
| 9:30 AM to 11:30 AM | <p align="center">Rating Review Workshop by Steve Anderson</p> | <p align="center">OHRM Benefits by Steven S. Ross & Wayne K. Sealey</p> | <p align="center">Special Monthly Compensation by Bo Rollins</p> | <p align="center">Supervising and Evaluating by Larry Mudgett American Management Association/Padget-Thompson</p> | | |
| Lunch (11:30 - 1:00) | | | | | | |

Sunday, July 16, 1995

| National Service Officer Continuing Education Program July 15 - 19, 1995 Doubletree Hotel - Dallas, Texas | | | | | | |
|---|--|---|--|--|---|--|
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:00 PM to 2:00 PM | Supervising and Evaluating by Larry Middgett American Management Association/Padgett-Thompson | | | Fee Services by Bonnie Marinelli & Bobbie Suresch | Claim Development by Brian D. Robertson & Paul M. Ivas | VBD Database Entry/Reporting by Carole L. Carrick & Andrew McKenzie |
| 2:00 PM to 3:00 PM | | | | Medical Services by Henry Bodenbender | | |
| Break (3:00 - 3:15) | | | | | | |
| 3:15 PM to 4:15 PM | Social Services by Gordon J. Casebolt | Fee Services Bonnie Marinelli, & Bobbie Suresch | Field Services by Jeffrey A. Dolzai & William S. Mailander | VBD Database Entry/Reporting by Carole L. Carrick & Andrew McKenzie | Appellate Procedures by Fredrick J. E. Mullen, Sr. | Medical Services Angela Steven & Fred Bradley |
| 4:15 PM to 5:15 PM | General Counsel Presentation | Hospital-Based Home Care by Suzanne Diffley & Clarence Gause | | | | Medical Services by Henry Bodenbender |

Sunday, July 16, 1995

| National Service Officer Continuing Education Program | | | | | | |
|---|--|---|--|--|--|---|
| July 15 - 19, 1995 | | | | | | |
| Doubletree Hotel - Dallas, Texas | | | | | | |
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:00 AM to 9:00 AM | OHRM Benefits by Steven S. Ross & Wayne K. Seeley | Claim Development by Brian D. Robertson & Paul M. Ives | Court of Veterans Appeals by Michael P. Horan & Linda E. Blauth | Social Services by Gordon J. Casbolt A.C.S.W. General Counsel Presentation | VBD Database Entry/Reporting by Carole L. Carrick & Andrew McKenzie | Fee Services by Bonnie Mannelli & Bobbie Suresch AED Forum/ VISN Overview Richard L. Glotfelty & Ronald W. Scholz |
| Break (10:00 - 10:15) | | | | | | |
| 10:15 AM to 11:15 AM | Medical Services by Angela Steven & Fred Bradley | Appellate Procedures by Fredrick J. E. Mulken, Sr. | Rating Review Workshop by Steve Anderson | Special Monthly Compensation by Bo Rollins | Field Services by Jeffrey A. Dolezal & William S. Mallander | Hospital-Based Home Care by Suzanne Duffey & Clarence Garser Prosthetics by David F. Graham |
| 11:15 AM to 12:15 PM | AED Forum/ VISN Overview Richard L. Glotfelty & Ronald W. Scholz | | | | | |
| Lunch (12:15 - 1:30) | | | | | | |

Monday, July 17, 1995

| National Service Officer Continuing Education Program | | | | | | |
|---|---|---|---|---|---|--|
| July 15 - 19, 1995 | | | | | | |
| Doubletree Hotel - Dallas, Texas | | | | | | |
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:30 PM to 2:30 PM | Claim Development by Brian D. Robertson & Paul M. Iwas | Field Services by Jeffrey A. Dolezal & William S. Mailander | Hospital-Based Home Care by Suzanne Duffley & Clarence Garsee | PVA's 401(k) Incentive Savings Plan by Linda Pearson | AED Forum/ VISON Overview Richard L. Glotfelty & Ronald W. Scholz | OHRM Benefits by Steven S. Ross & Wayne K. Seelye |
| 2:30 PM to 3:30 PM | | | Medical Services by Henry Bodenbender | Prosthetics by David F. Graham | Medical Services by Angela Steven & Fred Bradley | PVA's 401(k) Incentive Savings Plan by Linda Pearson |
| Break (3:30 - 3:45) | | | | | | |
| 3:45 PM to 4:45 PM | Appellate Procedures by Fredrick J. E. Mullen, Sr. | Court of Veterans Appeals by Michael P. Horan & Linda E. Blauhut | AED Forum/ VISON Overview Richard L. Glotfelty & Ronald W. Scholz | Rating Review Workshop by Steve Anderson | OHRM Benefits by Steven S. Ross & Wayne K. Seelye | Special Monthly Compensation by Bo Rollins |
| 4:45 PM to 5:45 PM | | | PVA's 401(k) Incentive Savings Plan by Linda Pearson | | Fee Services by Bonnie Marinelli & Bobbie Suresch | |

Monday, July 17, 1995

| National Service Officer Continuing Education Program | | | | | | |
|---|--|---|--|--|--|---|
| July 15 - 19, 1995 | | | | | | |
| Doubletree Hotel - Dallas, Texas | | | | | | |
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:00 AM to 9:00 AM | Field Services by Jeffrey A. Dolezal & William S. Mailander | PVA's 401(k) Incentive Savings Plan by Linda Pearson | Claim Development by Brian D. Robertson & Paul M. Ivas | Court of Veterans Appeals by Michael P. Horan & Linda E. Blauhut | Special Monthly Compensation by Bo Rollins | Social Services by Gordon J. Casebolt |
| 9:00 AM to 10:00 AM | | Medical Services by Angela Steven & Fred Bradley | | | | |
| 10:15 AM to 11:15 AM | Court of Veterans Appeals by Michael P. Horan & Linda E. Blauhut | AED Forum/ VISN Overview Richard L. Glatfely & Ronald W. Scholz | VBD Database Entry/Reporting by Carole L. Carrick & Andrew McKenzie | Hospital-Based Home Care by Suzanne Diffley & Clarence Garsee | Rating Review Workshop by Steve Anderson | Field Services by Jeffrey A. Dolezal & William S. Mailander |
| 11:15 AM to 12:15 PM | | Medical Services by Henry Bodenbender | | | | |
| Lunch (12:15 - 1:30) | | | | | | |

Tuesday, July 18, 1995

| National Service Officer Continuing Education Program | | | | | | |
|---|--|--|---|---|--|---|
| July 15 - 19, 1995 | | | | | | |
| Doubletree Hotel - Dallas, Texas | | | | | | |
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:30 PM TO 2:30 PM | Fee Services by Bonnie Marinelli & Bobbie Suresch | Rating Review Workshop by Steve Anderson | Social Services by Gordon J. Casbolt | Field Services by Jeffrey A. Dolezal & William S. Matlander | PVA's 401(k) Incentive Savings Plan by Linda Pearson | Claim Development by Brian D. Robertson & Paul M. Ivas |
| 2:30 PM TO 3:30 PM | PVA's 401(k) Incentive Savings Plan by Linda Pearson | | General Counsel Presentation | | Hospital-Based Home Care by Suzanne Diffley & Clarence Garsee | |
| Break (3:30 - 3:45) | | | | | | |
| 3:45 PM TO 4:45 PM | VBD Database Entry/Reporting by Carole L. Carnick and Andrew McKenzie | Special Monthly Compensation by Bo Rollins | Fee Services by Bonnie Marinelli & Bobbie Suresch | AED Forum/WISN Overview Richard L. Glatfely & Ronald W. Scholz | Court of Veterans Appeals by Michael P. Horan and Linda E. Blauhut | Appellate Procedures by Fredrick J. E. Mullen, Sr. |
| 4:45 PM TO 5:45 PM | | | Medical Services by Angela Steven & Fred Bradley | OHRM Benefits by Steven S. Ross & Wayne K. Seeley | | |

Tuesday, July 18, 1995

| National Service Officer Continuing Education Program | | | | | | |
|---|--|--|--|--|--------------------------------------|--|
| July 15 - 19, 1995 | | | | | | |
| Doubletree Hotel - Dallas, Texas | | | | | | |
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 8:00 AM to 9:00 AM | Special Monthly Compensation by Bo Rollins | Social Services by Gordon J. Casbolt | Appellate Procedures by Fredrick J. E. Mullen, Sr. | Claim Development by Brian D. Robertson & Paul M. Avas | Prosthetics by David F. Graham | Court of Veterans Appeals by Michael P. Horan & Linda E. Blauhut |
| 9:00 AM to 10:00 AM | | General Counsel Presentation | | | | |
| Break (10:00 - 10:15) | | | | | | |
| 10:15 AM to 11:15 AM | Hospital-Based Home Care by Suzanne Diffley & Clarence Garsee | VBD Database Entry/Reporting by Carole L. Carrick and Andrew McKenzie | Prosthetics by David F. Graham | Multiple Sclerosis Revisited Guest Speaker John Booss, M.D. Lincoln 1,2,3 East Meeting Room | | |
| 11:15 AM to 12:15 PM | Medical Services by Henry Bodenbender | OHRM Benefits by Steven S. Ross Wayne K. Seeley | | | | |
| Lunch (12:15 - 1:30) | | | | | | |

Wednesday, July 19, 1995

| National Service Officer Continuing Education Program | | | | | | |
|---|--|----------|-----------|--|--|---|
| July 15 - 19, 1995 | | | | | | |
| Doubletree Hotel - Dallas, Texas | | | | | | |
| Time | Group I | Group II | Group III | Group IV | Group V | Group VI |
| 1:30 PM to 2:30 PM | Multiple Sclerosis Revisited Guest Speaker John Boross, M.D. Lincoln 1,2,3 East Meeting Room | | | Appellate Procedures by Fredrick J. E. Mullen, Sr. | General Counsel Presentation | Rating Review Workshop by Steve Anderson |
| 2:30 PM to 3:30 PM | | | | | Social Services by Gordon J. Casebolt | |
| Break (3:30 - 3:45) | | | | | | |
| 3:45 PM to 5:45 PM | Closing Session Lincoln 1,2,3 East Meeting Room | | | | | |
| Veterans Benefits Department Reception Lincoln West Ballroom 7:00 P.M. - 9:00 P.M. | | | | | | |

Wednesday, July 19, 1995



Motto: "If I cannot speak good of my comrade, I will not speak ill of him."



DISABLED AMERICAN VETERANS

NATIONAL SERVICE and LEGISLATIVE HEADQUARTERS
807 MAINE AVENUE, S.W.
WASHINGTON, D.C. 20024
(202) 554-3501

June 8, 1995

Honorable Terry Everett
U.S. House of Representatives
Committee on Veterans Affairs
335 Cannon House Office Building
Washington, DC 20515

Dear Congressman Everett:

The Disabled American Veterans (DAV) is pleased to provide you with responses to additional questions regarding the subject of the May 12, 1995, hearing before your Subcommittee.

After each of your questions, repeated in full as instructed, I have provided our answer:

- Q. The VSOs put a lot of effort into assisting veterans with their claims. Do you know how much each of your organizations devote to paying for service officers who assist veterans with their claims?
- A. I do not have information on the resources other VSOs devote to service. The DAV's current annual budget for programs to assist veterans is \$57,890,000. Of this, \$31,415,000 funds direct assistance to veterans in claims representation through the DAV's service program and network of National Service Officers (NSOs).
- Q. How many hours of formal training do service officers get before you request VA certification?
- A. A National Service Officer has that status immediately upon being employed with DAV. To be recognized as an NSO, an individual must be accredited by the Department of Veterans Affairs (VA). Application for accreditation is made when the individual is hired. With accreditation, an NSO has access to claimant records and is recognized by VA as an authorized claims representative. However, DAV NSOs do not immediately perform services as claims

(2)

representatives. They must first successfully complete an intensive four-month training program in the DAV's training academy in conjunction with the University of Colorado, where they earn twelve undergraduate credits.

Instructors from the University and DAV professional staff conduct classes for the National Service Officer Trainees. Some of the subjects taught by University staff are: medical terminology, anatomy, physiology, theories of argumentation, theories of persuasion, public speaking, business and professional writing, and legal research and preparation of legal briefs. DAV instructors teach classes on all aspects of VA and military benefits and claims representation. They are given orientation lectures on all DAV programs, such as veterans' employment, legislation, and voluntary services.

After graduation from the academy, NSO trainees are assigned to DAV field offices where they undergo twelve additional months of on-the-job training and additional academic training as necessary. Supervisory NSOs provide individualized instruction, monitor their work, and submit monthly reports on their progress.

After their sixteen months of training is complete, NSOs go through the DAV Structured and Continuing Training Program, which the American Council on Education recognized for six undergraduate credit hours. This training is in two phases, each now lasting two years. This training focuses on the VA rating schedule and principles of service connection and includes extensive reference materials, workbooks, audio tapes, training videos, and computer-based unit testing. Training materials are updated as changes occur. This training will be expanded this year to include comprehensive coverage of adjudication procedures and understanding of the mechanics and results of judicial review along with an indepth survey of the veteran-related jurisprudence of the United States Court of Veterans Appeals, the United States Court of Appeals for the Federal Circuit, and the United States Supreme Court.

National Service Officers attend seminars on service, legislation, and veterans' employment at the DAV's annual national convention, as well as other various seminars and lectures which may be available to them through a number of sources, including VA. DAV has obtained the VA's training program for its veterans' counselors, ADVISOR, for use by DAV NSOs.

(3)

DAV has encouraged its NSOs to take paralegal classes offered by local universities and community colleges. DAV reimburses for the costs of approved classes. A number of NSOs have taken advantage of this program, obtaining Paralegal or Lawyers' Assistant Certificates.

- Q. How many hours of annual refresher training do they get?
- A. DAV NSOs do not get refresher training as such. In the course of their regular work, they constantly file claims and provide representation for the complete spectrum of VA benefits. Refresher training is unnecessary, simply because they continually deal with all areas of VA benefits, and the need to reacquaint themselves does not arise. Through regular staff meetings, NSOs are familiarized with changes in law. The DAV is also adding new modules to the Structured and Continuing Training Program discussed above. Thus, training for DAV NSOs is ongoing, but this training is to enhance their technical expertise and advocacy skills rather than refresh them. DAV management regularly surveys DAV field offices to ensure that they are operating in compliance with DAV standards. Review of NSO work products is a part of this process. Should an NSO's work be found deficient, he is returned to a special training status.
- Q. Do you require recurring formal training to retain your organization's endorsement to practice before the VA?
- A. Recurring formal training as a condition of continued status as an NSO has never been a fixed provision in our employment policy. Our ongoing training is mandatory, however. And, as noted above, any NSO found to be deficient must reenter and successfully complete our basic NSO training.
- Q. What do you think of VA's overhaul of the rating schedule?
- A. VA has consulted with the VSOs on proposed changes to the rating schedule. Some of the schedular ratings now available will be revised under the proposed changes, and DAV, in some instances, differed with VA. For example, we believed that some of the minimum compensable (10%) ratings should be retained where VA will replace them with noncompensable ratings (0%). Some of the convalescent periods, such as the one following a heart attack, have been reduced thereby

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shortening the time during which the veteran receives a 100% rating. These and other changes reflect advances in modern medicine. Obsolete diagnostic classifications are being replaced, and where possible, VA is striving to make the rating criteria less subjective. DAV had criticized the excessive use of subjective criteria.

VA has indicated, on several occasions, that proposed rating criteria would be changed to incorporate our suggestions. So far, the cooperation seems to be very good, and, overall, it appears VA's efforts are to revise the schedule in a manner reflective of advances in medicine, but yet fair to veterans.

Final rules on many of the sections of the schedule have been pending for an extended period of time. Admittedly, some of the delay may result from VA's efforts to address our concerns and incorporate our suggestions into the rules. However, delays in promulgating these changes do seem unnecessarily long. Hopefully, the final rules will live up to VA's promises.

Congressman Evans also presented the following questions to which I have provided responses.

- Q. Mr. Surratt, your testimony implies that the number of appeals filed with the Board of Veterans Appeals has changed dramatically, and that this is an indicator of poor quality on the part of regional offices. Can you give us some indication of this change?
- A. I did not mean to imply that the number of appeals filed with the Board of Veterans' Appeals (BVA or Board) had changed dramatically.

I did suggest that the proportion of those cases appealed which were remanded because of record deficiencies or reversed because of error indicated poor quality in regional office decisions. I noted that, during the first half of fiscal year 1995, BVA remanded 49.4 percent of the regional office decisions and reversed another 18.7 percent. Not accounting for some cases remanded unnecessarily, of all the regional office decisions reviewed during that period, 68.1 percent contained errors in record development or adjudication.

On its face, this demonstrates an unacceptably high error rate in regional office decisions, at least in those cases appealed. One result is that of delay, both for those who must appeal to get a proper decision and the remainder of claims which are delayed

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as consequence of overload on the system due to the necessity for multiple decisions on these claims.

The question that follows is whether the appealed cases are a representative sample of all VA claims decisions and therefore whether the error rate in all claims decisions is approximately the same. VA's reaction is that the error rate in appealed cases is rather insignificant in the context of all the claims decisions of VA each year. VA notes that the cases appealed to BVA in fiscal year 1994 represented less than 2 percent of all its claims decisions for that year. The implication is twofold: (1) the error rate in appealed cases is acceptable and (2) all the cases not appealed were without error.

As you know, during the May 12, 1995, hearing, this issue was the subject of a question to me:

Mr. Everett. . . . "Mr. Surratt, let me ask you, considering that all the claims decisions appealed to the Board of Veterans' Appeals represent only about 1 percent of the total claims processed by VA, can the remand and reversal rate by the Board of Veterans' Appeals be deemed representative of the quality of the VA claims adjudication overall?" Mr. Surratt. "I don't believe we can confidently say that the error rate in those decisions not appealed is necessarily the same as the error rate in the decisions reviewed by the Board of Veterans' Appeals. On the other hand, neither can we conveniently assume that the cases not appealed are error free as a way to trivialize this large error rate we see at the Board of Veterans' Appeals.

VA's laws and regulations are fairly complex. I don't believe many veterans understand or are familiar with these laws and regulations, and in my experience not many veterans familiarize themselves with the evidence in their case. What that means is that they really don't have much of an idea of the legal merits of their claim. They may have a feeling that they are entitled to more or something like that. So, just like some veterans appeal when they shouldn't, I think we can assume that some veterans don't appeal when they should, and the bottom line is, again, while it may not, the error rate in those appeal cases, may not correlate exactly, I think what we see at the Board is certainly representative of a larger problem."

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This situation probably represents no change for the worse in VA decisions. BVA is now subject to review by the Court of Veterans Appeals (Court), and the Court has demonstrated its willingness to require compliance with the law. As a result, BVA must reject regional office decisions which do not conform to the law. Thus, it is not that the error rate has necessarily increased, but rather that it is now exposed.

- Q. The Republican leadership of the House and Senate have just unveiled their budget proposals. In addition to raising certain fees imposed on some veterans and possibly restricting future eligibility for compensation, they would drastically cut VA's discretionary funding. Chairman Kasich's proposal reduces funding by almost \$5.7 billion annually by 2002 relative to CBO's projected baseline.

In your opinion, what impact would such cuts have on VA services and programs?

- A. There seems to be no serious question that the House and Senate budget proposals would have a devastating effect on VA services and programs. Under the Senate Budget resolution, VA estimates the impact as follows:

- * deny care to 142,000 veterans in 1996 and almost a million by 2002 - the equivalent of closing 35 hospitals over that period;
- * cancel about 200 construction projects needed to make VA hospitals comparable to others in the community - safe, without 16-bed wards and communal baths, adapt VA facilities to accommodate the shift to ambulatory care, and maintain VA's aging infrastructure;
- * eliminate 8,200 health care staff in 1996 and over 50,000 by 2002;
- * stop development of 150 research projects each year for seven years;
- * reduce benefits staffing by 950 employees, thus seriously degrading the timeliness of our claims processing;
- * increase prescription copayments for poor veterans; and
- * unfairly restrict the concept of service connection in a way that denies disability

(7)

compensation to more than 137,000 veterans over the next seven years.

These cuts are so deep they go to the heart of the VA system and threaten the integrity and viability of all VA programs.

Veterans' service organizations have presented a plan to reform the veterans' health care system to adapt it to the modern health care environment and make it better able to meet the health care needs of veterans in a cost-effective manner. This plan would result in substantial savings for the government, yet this plan has not received serious consideration.

The House budget proposal will have similar adverse consequences for veterans' programs.

Particularly offensive is the proposal to deprive veterans of compensation merely because their disability is mental. Incompetent veterans who are the victims of their disease should not be further victimized by the government of the Nation they defended by requiring forfeiture of their disability compensation. It is unconscionable to visit this discriminatory burden upon an already disadvantaged class of veterans. There are also serious questions about whether this discriminatory action would violate the equal protection provisions embodied in the Due Process Clause of the United States Constitution.

The House plan would permanently round down compensation and DIC COLAs and reduce others by one-half. Rounding down of the adjusted rates will erode the value of these benefits over time, and they will therefore not keep pace with the rise in the cost of living.

The House proposal would also eliminate 600 veterans' job placement staff under cuts proposed for the Department of Labor. The results will be that 100,000 fewer veterans will be placed in civilian jobs.

Q. Several members of the Committee have indicated their belief that the Court of Veterans Appeals is largely responsible for the backlog.

Do you agree with this?

Do you agree with their obvious contention that veterans were better off prior to judicial review?

A. I do not believe that the Court is largely responsible for the backlog. As I stated during my testimony,

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quality and timeliness are not mutually exclusive. Indeed, they are interdependent. If VA regional offices, for the most part, developed the record properly and made the correct decision the first time, there would not be multiple reviews of a claim and the system would not be overloaded.

The Court, if it is to fulfill its function lawfully, must require VA compliance with the law, even if that inconveniences VA and even if it means VA must more thoroughly and carefully review claims. Even if the backlog could be directly attributed to the effects of judicial review--and I do not believe it can--that would suggest no fault on the part of the Court, which is merely performing its duty. The more the imposition of judicial review impacts upon VA, the more it is evident that VA was not processing claims in accordance with the law prior to judicial review and the more it is demonstrated that the Congress did the proper thing in establishing the Court. On the other hand, if VA's claims processing before judicial review was as good as it was represented, the Court would have little impact.

It follows that veterans were not better off without judicial review. Far from demonstrating Court-created problems, the high error rates found by the Court and at BVA show the Court is working, that large numbers of veterans whose claims would have previously been incorrectly decided, now receive proper decisions. Any additional delays over the short term, while VA is adjusting, are well worth it. It is better to eventually receive the benefits to which you are entitled than to never receive them at all.

Prior to judicial review, the BVA allowance rate consistently was around 12 percent. Now, it has climbed to 18.7 percent. This means the Court has had a beneficial effect. However, if VA truly improves its claims adjudication, the error rates in appealed cases, both at the Court and BVA level, should drop. If we continue to see high remand and reversal rates--which we have over the years since the advent of judicial review--we can only conclude that VA has not improved its decision making. However, I can assure you that, at least at the BVA level, veterans are now able to enforce their rights in several areas where there was previously an institutional departure from the law. Veterans, and VA, have benefitted from judicial review. Much work still needs to be done at the regional office level, however, and BVA has not yet fully acclimated itself to judicial oversight.

(9)

During the hearing, I was also asked if VA should provide more space for our service officers at the Benefit Training Academy in Baltimore, Maryland. I can now confirm that DAV has experienced no problems with insufficient space at the academy.

I hope the above responses are helpful. Should you need additional information or clarification, I would be happy to provide it. The Subcommittee's interest and support are appreciated. DAV also thanks you for the opportunity to present its views.

Sincerely,



RICK SURRETT
Associate National
Legislative Director

RS:nb

cc: Honorable Lane Evans

**The
American
Legion**

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



For God and Country

June 7, 1995

Honorable Terry Everett
Chairman
Subcommittee on Compensation, Pension,
Insurance, and Memorial Affairs
Committee on Veterans Affairs
U.S. House of Representatives
335 Cannon House Office Bldg.
Washington, DC 20515

Dear Chairman Everett:

This is to respond to the follow-up questions to the Subcommittee hearing on May 12th.

1. The VSOs put a lot of effort into assisting veterans with their claims. Do you know how much each of your organizations devote to paying for service officers who assist veterans with their claims?

Answer: It is impossible to estimate the amount of money spent by The American Legion to conduct its service program. Our organization is decentralized in terms of its administrative functions and budget. There is a small national staff in Washington, DC, which handles cases at the Board of Veterans Appeals. Service at the regional office level is provided by the Legion state organizations. In most states, the American Legion Department or state service officer and his staff are employees of the state Legion organization. In a number of states, service in the name of The American Legion is provided by employees of the State Department of Veterans Affairs who are Legion accredited representatives.

2. How many hours of formal training do service officers get before you request VA certification? How many hours of annual refresher training do they get? Do you require recurring formal training to retain your organization's endorsement to practice before the VA?

Answer: Most of the basic training provided to new professional Legion service officers is "on-the-job", under the supervision of experienced service officers. Since this type of training requires routine access to VA records,

a request for accreditation is normally submitted to the VA General Counsel shortly after an individual is hired. They also attend VA training sessions at their local station.

The American Legion, since 1986, has provided 60 hours of formal training/continuing education annually to Legion accredited representatives. The National Organization pays the expenses for one representative from each state. The states have sent additional representatives at their expense. Two sessions are conducted each year - one in February and one in July, with an attendance of about 110 service officers at each session.

The Legion does not have a national continuing education requirement in order to retain or maintain accreditation. Although participation in the semiannual training sessions is not mandatory, it is strongly recommended. The states are encouraged to send as many service officers as possible. Information and material provided is to be used to conduct training to staff who could not attend.

3. What do you think of VA's overhaul of the rating schedule?

Answer: Updating of the Rating Schedule permits fair and more accurate evaluations of a veteran's disabilities. Revisions to a number of sections of the Schedule have been published and are also available on computer disks.

Questions from the Honorable Lane Evans:

1. The Republican leadership of the House and Senate have just unveiled their budget proposals. In addition to raising certain fees imposed on some veterans and possibly restricting future eligibility for compensation, they would drastically cut VA's discretionary funding. Chairman Kasich's proposal reduces funding by almost \$5.7 billion annually by 2002 relative to CBO's projected baseline.

In your opinion, what impact would such cuts have on VA services and programs?

Answer: Cutting VA's discretionary funds will have a devastating effect on regional office claims processing. Over the last year and a half, VBA has been able to make progress toward reducing the backlog of pending claims and processing times have slowly begun to improve. Any decrease in funding will cause the recent positive trend to reverse itself with a return to massive backlogs and longer and longer waiting times.

2. Several members of the Committee have indicated their belief that the Court of Veterans Appeals is largely responsible for the backlog.

Do you agree with this?

Answer: The American Legion does not agree with the complaint that the Court is "responsible" for the backlog of pending claims. What apparently has been forgotten is that in 1988 Congress found the VA system of claims adjudication and appeals to be so arbitrary and unfair it was necessary to create this Court to try and correct these problems. The transition to this new legal environment has been slow and difficult for VA officials, adjudicators, and the BVA in large part due to initial institutional resistance to accepting the concept of judicial in the VA as a fact of life. Procedures, guidelines, and regulations are subject to frequent changes which necessitates frequent training and which tends to slow down production.

Many in Congress may not have expected or anticipated the variety of administrative, procedural, and regulatory changes imposed on VA as a result of the Court's precedent decisions. However, such lack of foresight or understanding is no grounds to now say that the Court is somehow "responsible" for or the cause of the VA's backlog.

As a matter of fact, through the mid-late 1980s, VA's backlog of pending claims was growing significantly and response times were increasing due to a combination of factors - such as the heavy caseload, severe cutbacks in regional office staffing, and new due process and benefit legislation, etc. This trend developed well before the passage of the Judicial Review Act in 1988.

Do you agree with their obvious contention that veterans were better off prior to judicial review?

Answer: The term "better off" seems to imply that if VA's service to veterans was faster prior to the Court, it was, therefore, "better". Focusing only on the length of time it may have previously taken to process a claim ignores the very real fact that many of the decisions rendered were of questionable quality and many veterans were unfairly denied benefits to which they were entitled by law. The real question is -"Are veterans better off by having the opportunity to challenge a denial in a court of law or not, even though, because of backlogs at the regional office and BVA, this process at the present time may take several years?"

Veterans are entitled to due process and judicial review and deserve timely service on their claims. However, according to VA, the inability to provide higher quality,

more expeditious service was due to the long-standing lack of personnel and other resources. Unfortunately for years (and for tens of thousands of veterans and their families), it had always been pretty much "business as usual" and fundamental inequities and legal deficiencies in the system remained uncorrected.

It is, therefore, very difficult to see how or in what way veterans were "better off" prior to the Court. A more accurate assessment would be that veterans did not know or realize how badly off they were. The Court is doing what was intended by Congress which is to provide remedy in individual appeals and, at the same time, correct legal problems found in VA's procedures and regulations.

Sincerely,


Phillip R. Wilkerson
Dep. Dir. for Operations
National VA&R Commission

cc: Steve Robertson
Carroll Williams

THE HONORABLE TERRY EVERETT, CHAIR
SUBCOMMITTEE ON SUBCOMMITTEE ON COMPENSATION,
PENSION, INSURANCE AND MEMORIAL AFFAIRS
HEARING ON MAY 12, 1995
QUESTIONS SUBMITTED FOR THE RECORD
VIETNAM VETERANS OF AMERICA

1. The VSO's put a lot of effort into assisting veterans with their claims. Do you know how much each of your organizations devote to paying for service officers who assist veterans with their claims?

VVA will spend approximately \$ 464,155.92 on service officers who represent claimants at the DVA Regional Offices, Board of Veterans' Appeals and Court of Veterans Appeals.

2. How many hours of formal training do service officers get before you request DVA certification? How many hours of annual refresher training do they get? Do you require recurring formal training to retain your organization's endorsement to practice before the DVA?

VVA Service Representative trainees attend our 40 hour annual training school here in Washington, DC. They get an average of 12 hours annual VVA refresher training. This training is required to maintain their accreditation.

3. What do you think of the DVA's overhaul of the rating schedule?

VVA supports this effort by DVA to modernize the rating schedule. Since only one portion of the schedule has been updated so far, it is too early to tell how well the process is going. VVA urges DVA to quickly update its regulations dealing with mental disorders (including post traumatic stress disorder) to coincide with DSM-IV.

THE HONORABLE LANE EVANS, RANKING MEMBER
SUBCOMMITTEE ON SUBCOMMITTEE ON COMPENSATION,
PENSION, INSURANCE AND MEMORIAL AFFAIRS
HEARING ON MAY 12, 1995
QUESTIONS SUBMITTED FOR THE RECORD
VIETNAM VETERANS OF AMERICA

1. What clearly articulated guidelines do you suggest that would make the clinically oriented reports of private physicians meet the rating requirements of forensically oriented examination reports?

VVA suggests that DVA provide claimants with easily understood information advising them of their rights to use private medical exams in addition to, or in some cases instead of, DVA exams. DVA should also provide claimants with a printed summary of the relevant portion of DVA Physician's Guide to Disability Evaluation Examinations, to be used by their private doctor. In addition, a VARO employee could be tasked with answering questions from private physicians regarding these issues.

2. The Republican leadership of the House and Senate have just unveiled their budget proposals. In addition to raising certain fees imposed on some veterans and possibly restricting future eligibility for compensation, they would drastically cut DVA's discretionary funding. Chairman Kasich's proposal reduces funding by almost \$ 5.7 billion annually by 2002 relative to CBO's projected baseline. In your opinion, what impact would such cuts have on DVA services and programs?

VVA believes that such cuts will place a severe burden on the already strained DVA claims adjudication system, thereby increasing the time it takes for veterans to obtain benefits to which they are entitled.

3. Several members of the Committee have indicated their belief that the Court of Veterans Appeals is largely responsible for the backlog. Do you agree with this? Do you agree with their obvious contention that veterans were better off prior to judicial review?

VVA strongly disagrees with this position. There has been a dramatic improvement in the quality of the decisions rendered by DVA Regional Offices and the Board of Veterans' Appeals since passage of the Veterans Judicial Review Act. This is because the Court has required DVA to thoroughly explain its decisions, and to adhere to the applicable laws and regulations. Due to this impact of judicial review, many veterans have been granted benefits who would otherwise have been improperly denied them. VVA is justifiably proud of its role as the leader in the VSO community in helping to convince Congress to create the Court in 1988.

At the same time, VVA believes the Court and the BVA could help reduce the backlog by deciding more rating increase cases on the merits, rather than remanding to obtain more current medical evidence. In those cases where the evidence is outdated, they should decide the claim based on such evidence, then allow the veteran to submit the new medical evidence in a reopened claim at the Regional Office, without losing his original effective date. To the extent that statutory or regulatory changes are needed to begin such a policy, VVA urges that these changes be made.