

SOCIAL SECURITY ADMINISTRATION
OCCUPATIONAL INFORMATION DEVELOPMENT
ADVISORY PANEL QUARTERLY MEETING

APRIL 28, 2009

SHERATON - ATLANTA HOTEL

ATLANTA, GEORGIA

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1 P R O C E E D I N G S

2 MS. TIDWELL-PETERS: Good morning,
3 everybody. If you could please take your seats,
4 we're about to begin.

5 Good morning. Welcome to day two of the
6 Occupational Information Development Advisory Panel
7 meeting of the Social Security Administration. My
8 name is Debra Tidwell-Peters. I am the Designated
9 Federal Officer. I am now going to turn the meeting
10 over to Dr. Mary Barros-Bailey the interim chair.
11 Good morning, Mary.

12 DR. BARROS-BAILEY: Good morning. How is
13 everybody doing this morning? All right.

14 Here we are on day number two, and I would
15 like to first review the agenda for today, what we're
16 going to be doing. We're going to be starting the
17 morning with Shirleen Roth, who will be completing a
18 bit of her presentation from yesterday. Then, we're
19 going to be hearing from our vocational experts in
20 terms of their analysis of the case study. Then
21 we're going to hear from the claimants
22 representatives in terms of their analysis.

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1 We're going to have a presentation from
2 Mark Wilson about the Taxonomy subcommittee. And
3 then we're going to come back from lunch and have a
4 panel of all the users who have been analyzing this
5 case, asking questions and what not. Then this
6 afternoon we are going to be going into Panel
7 discussion and deliberation, and public comment. So
8 I will just turn it over to Shirleen. Thank you.

9 MS. ROTH: Thank you, Dr. Barros. I would
10 like to connect the dots from yesterday's
11 presentation. We jumped from discussing what past
12 relevant work was into transferability of skills
13 analysis. So today we would like to go over the
14 analysis of step four of sequential evaluation.
15 That's just making a determination whether the
16 claimant can do her past relevant work; and then step
17 five, which is an evaluation of whether she can do
18 other work. Transferability of skills is part of
19 that step five analysis.

20 So when we look to see whether or not the
21 claimant can do past relevant work, the first step of
22 that is to see whether she can do it as she describes

1 it. It is a function by function assessment. We
2 don't wind things off to sedentary, light, medium.
3 We actually look at how she actually described it,
4 and what's shown on her RFC.

5 So in this particular case -- I will have
6 the documents up on the screen. In this particular
7 case, I'm going to go to -- this is an analysis of
8 exclusion you might say. We find one thing about the
9 past work that she can't do, and we automatically
10 then exclude it. We don't have to necessarily look
11 at every element. The moment we have excluded her
12 past work because of one item, we can go on to the
13 next step.

14 So in this particular case, the RFC says --
15 I'm going to go to the most restrictive item on it.
16 And in this particular case the RFC says that she can
17 stand or walk at least two hours in an eight hour
18 work day. And on the very last page we clarified
19 that with some specific information indicating that
20 she can stand and walk a total a maximum of three
21 hours total in the work day. We say a six hour day
22 because that's the typical day when you start

1 subtracting out lunch and breaks, and so on.

2 So a maximum of three hours in a work day.

3 When we go to her statement of what her past work was
4 like -- if we don't have a good understanding of what
5 her past work was like, we can actually do some
6 additional development. We can look at the
7 Dictionary of Occupational Titles for some more
8 information.

9 I mean, as a disability adjudicator, there
10 were some jobs I was presented with, I had no clue
11 what those jobs involved. And so to get a better
12 understanding of what those jobs entailed, I went to
13 the Dictionary of Occupational Titles. But in this
14 situation medical records clerk, I'm going to look at
15 what she says her job involved; and if it appears to
16 be reasonable, then, I'm going to accept that and
17 then move on to the next step.

18 In this particular case her job as a
19 medical records clerk involved walking four hours a
20 day and standing two hours a day, which would be six
21 hours. That would be beyond her capacity of three
22 hours. So based -- based on what she has described,

1 and it appears that what she has described is
2 reasonable, I would then say that she would not be
3 able to do that medical records clerk occupation.

4 DR. SCHRETLEN: Shirleen, I have a
5 question.

6 MS. ROTH: Yes.

7 DR. SCHRETLEN: Is this coming just from
8 her, because it also indicates that unless she is
9 walking and standing at the same time that she is
10 working 19 hours a day?

11 MS. ROTH: Well, she is walking four hours
12 a day, standing two, sitting two.

13 DR. SCHRETLEN: Working all together, all
14 of these numbers add up to 19.

15 MS. ROTH: Right. While you are climbing,
16 you could be walking and standing. While you are
17 stooping, you could be stooping from a seated
18 position. You could be stooping from a walking and
19 standing position.

20 DR. SCHRETLEN: So these are just her
21 report?

22 MS. ROTH: Right. Actually, it is not --

1 her report is not inconsistent. So for example,
2 writing, typing, and handling small objects, that
3 would typically be done from a seated position. So
4 as this report is described, the walking, standing,
5 and sitting, those are body positions.

6 The other elements are -- they are not in
7 addition to it. They are what you would do from
8 those body positions. The base positions are
9 walking, standing, and sitting. Again, crouching you
10 do that when you are standing. Crawling, it feeds
11 into the idea of walking, standing, and sitting.

12 Did that help any?

13 DR. SCHRETLEN: Yes.

14 MS. ROTH: Thank you.

15 Again, in this particular occupation we can
16 see that she is walking, standing, sitting six hours,
17 she would not have that capacity. So we would say
18 that as she described it, she would not be able to do
19 her medical records clerk occupation.

20 Regarding the medical records technician,
21 she described walking three hours and standing one
22 hour. And so that would be at a -- four hours out of

1 a typical work day. She is limited to three. We
2 would say that she would not be able to do that job,
3 as she describes it. Okay.

4 The next step -- now keep in mind if we
5 have any questions about any of these, we can go back
6 and double check it with the employer. We can double
7 check it with other knowledgeable people, friends,
8 and relatives. If we need more information we can
9 check it in the Dictionary of Occupational Titles.
10 We can look at any other number of occupational
11 reference materials, such as the Occupation Outlook
12 Handbook. So there are some reference that will give
13 us more information about how this job is done if we
14 don't have a good understanding of it to begin with.

15 So we have excluded the idea -- we have
16 determined now that she cannot do her past relevant
17 work as she described it. The next step would be to
18 look at it -- these occupations as they are done in
19 the national economy. And for that we would look at
20 the Dictionary of Occupational Titles, and we're
21 going to be looking in the DOT. Okay.

22 This is her first occupation, medical

1 records clerk. And in this particular occupation
2 it's described in the national economy as light.
3 Light work involves standing and walking to a
4 significant degree. It involves lifting and
5 carrying -- lifting up to 20 pounds occasionally, and
6 10 pounds frequently; but again, it involves standing
7 and walking to a significant degree.

8 We would say that somebody who -- to do
9 light work you would have to be able to stand and
10 walk most of the work day; and programmatically, we
11 describe most of the work day as being able to stand
12 and walk about six hours.

13 Again, in her RFC we can see that she can
14 only stand and walk three hours out of a typical work
15 day. So we would say that she would not be able to
16 do the medical record clerk occupation as it's
17 described in the national economy.

18 Her other occupation is medical record
19 technician, and again, that's described as a light
20 occupation. In order to do that as it's described in
21 the national economy, she would be required to be
22 able to stand and walk most of the work day, which

1 again, we would describe programmatically as six
2 hour. Since she cannot stand and walk six hours
3 during the work day, we would say that she would not
4 be able to do that as it's done in the national
5 economy.

6 Now, keep in mind that when we're looking
7 at this, right now we're looking at SVP level four
8 job, which is semi-skilled; and SVP six job, which is
9 considered skilled. So as you can see, because we
10 need to compare her RFC with work as it's described
11 in the national economy, we do, in fact, need
12 descriptions of work as a broad spectrum of
13 occupations.

14 So simply having an occupational system
15 that describes unskilled work or lower level work for
16 us would not be sufficient, because we do need to --
17 we do need reference material to see how basically
18 most or all of the occupations in the national
19 economy are performed.

20 Do you have any questions about this before
21 we go on?

22 The next element is step five, which is a

1 determination of whether or not she can do work --
2 other work that exist in the national economy. Now,
3 we have, and you received as reference material, our
4 Regulations 20 CFR, subpart "P," appendix two. That
5 reference materials consisted of tables and charts,
6 which have education, work experience, and so on
7 listed on it. And we refer to those to determine
8 whether or not the person can do work in the national
9 economy -- other work in the national employee.

10 Now, if the RFC matches exactly the
11 strength level that's described in the Dictionary of
12 Occupational Titles for sedentary, light, and medium,
13 then we go right to that table. If they have
14 additional nonexertional limitations, then we have to
15 decide which is the appropriate table; and we do that
16 by identifying occupational base.

17 Now, before I go into occupational base,
18 you need to understand that those tables are all
19 based on the existence of unskilled work; and that's
20 unskilled occupations. Not unskilled jobs, but
21 unskilled occupations. And we do that as a proxy for
22 if someone can't do their past work, then it means

1 they need to start over again. They need to have
2 some kind of entry level work that they can go to.
3 So we use unskilled work as a proxy for entry level
4 work, because there is no description in any national
5 literature of entry level work. So again, SVP is
6 being used as a proxy for entry level work in this
7 particular situation.

8 Now, in this case we know what she has on
9 her RFC. We are going to now need to decide which
10 one of these tables to use. There is a table for
11 sedentary work. There is a table for light, table
12 for medium; and then we have a rule that's not
13 technically a table -- a rule called 204, which deals
14 with those people who can do heavy work or very heavy
15 work. In other words, they have no significant
16 physical limitation, but perhaps, they have some
17 nonexertional limitations, such as stooping or some
18 kind of an environmental limitation or a mental
19 limitation. We use our 204 rule for that. And
20 that's basically all unskilled work in the national
21 economy.

22 Now, in this particular case, she can lift

1 20 pounds occasionally, 10 pounds frequently, which
2 would be at the light level. But she can only stand
3 or walk three hours a day; we just discussed that.
4 And that is less than the light level.

5 So the analysis that I have to do at that
6 point and time is to decide what table to use. Do I
7 use the light table, or do I use the sedentary table?
8 And to do that I have to factor in all of the
9 nonexertional limitations and describe to what extent
10 that light occupational level is eroded.

11 Now, in this particular case it's pretty
12 straight forward. The posture limitations that she
13 has in terms of climbing, balancing, stooping,
14 kneeling, crouching, and crawling, those are not
15 significant limitations at the sedentary level. And
16 her inability to stand and walk more than three hours
17 in a work day would be significant limitations at the
18 light level.

19 So we would say the table that most closely
20 approximates her occupational base is sedentary. In
21 this case it's pretty clear cut. But we have cases
22 that are very difficult to make this occupational

1 analysis in terms of what the occupational base is.
2 You might have some manipulative
3 limitations in terms of handling. You might have
4 limitations in one hand, the non-dominant hand, but
5 not the dominant hand. And we have to make some
6 extremely difficult analyses in terms of which table
7 is the appropriate table to use. And that's
8 something that we hope that as you look at the
9 occupational information for the new system you will
10 consider that difficult analysis process that we
11 have.

12 Now, again, in this particular case we're
13 going to use the sedentary rules. And as I mentioned
14 yesterday, the sedentary -- particular vocational
15 rules that will be applied based, again, on her age
16 of 51, almost 52; based on her two year -- she has
17 education, two years of college; and she has a
18 skilled work background. The vocational rules would
19 apply. We would pick those out of those tables, and
20 those would be vocational Rules 201.14, and 201.15.
21 And the discriminating factor of those two particular
22 rules is whether or not her skills are transferable.

1 So if her skills are transferable to other
2 occupations -- in other words, if we can expand. We
3 started off with an unskilled occupational base.
4 That's what those tables represent. If we can expand
5 those tables into skilled work that she can do, then
6 we would find that she is not disabled. But if we
7 are restricted to looking at only unskilled work that
8 she can do, then we would find that she is disabled.

9 As I explained yesterday, we went
10 through -- we looked through several occupations and
11 we found work that we felt she could transfer to. Or
12 that her -- the correct way to say that, occupations
13 that her skills would apply to, and that would help
14 her adjust to that other work.

15 Now, do you have any other questions about
16 the step five analysis?

17 Yesterday you asked some questions about
18 vocational documentation and how to get that
19 information. What I would like to do, in the
20 interest of time, is to prepare some information for
21 you for your next Panel meeting, which would address
22 some of that -- some of those questions, if that

1 would be acceptable to you. Do you have any other
2 questions? Thank you very much.

3 DR. BARROS-BAILEY: Thank you, Shirleen.

4 At this point we are ready for our
5 vocational experts to present on the case. I would
6 like to introduce the experts. We have Mr. Scott
7 Stipe. He is the president of Career Directions
8 Northwest. He is a vocational rehab counselor, and
9 also vocational evaluator practicing out of Portland,
10 Oregon.

11 We also have Ms. Lynne Tracy. She is the
12 president of Lynne Tracy & Associates, practicing in
13 the greater Los Angeles area. We will give you a
14 couple minutes to get set up for our program
15 analysis.

16 (Whereupon, there was a brief pause in
17 the proceedings.)

18 DR. BARROS-BAILEY: So welcome.

19 MS. TRACY: Thank you so much. Thank you
20 for inviting us to come and speak with you. It's
21 very kind of you to consider hearing from us who are
22 in the trenches.

1 What we thought would be helpful today is
2 to give you an idea of what an actual hearing is like
3 to some limited level of that experience, but then to
4 go more into detail about how we look at this
5 particular case or any of the cases, what we see in
6 the hearing, because it's really -- in reality, by
7 the time it gets to the hearing, it may be a little
8 different than what happens at the DDS level and
9 such; talk to you a little bit about our wish list as
10 vocational experts, what we would really like to see
11 included; the kinds of questions we get asked that
12 are so difficult to answer that really require us to
13 put our hats on and really use our expertise from our
14 experience in the field working.

15 So we are real comfortable going back and
16 forth with each other. If you have any questions as
17 we begin speaking -- we are leaving time for
18 questions as well, but you can freely interrupt us.
19 We're kind of used to it as vocational counselors.

20 So I just want to kind of talk to you about
21 what happens when we first get that case and some
22 initial thoughts. At the point when the hearing

1 takes place, this is really the first time other than
2 when that application has been taken, for the
3 claimant to really tell their story and to get seen;
4 and they become not a one dimensional person on
5 paper, they become a three dimensional human being.

6 So in many ways you are -- in the hearing
7 we're picking up the nuances and we're seeing that
8 person as they are, and it's important they get seen
9 by the ALJ to -- most ALJs want to do those hearing
10 and see them in person, rather than the option of
11 having to do a finding in the record, because they
12 want to see a person walk in the room, sit through a
13 hearing, et cetera. And it's also very helpful to
14 all of us.

15 So what happens in that initial stage -- it
16 used to be we had paper files. We have now gone to
17 CDs. So generally speaking, although, there are
18 variances nationally by regions, but typically we
19 will get in advance of the notice of the hearing, we
20 will get a CD that has the case file on it with the
21 medical records, the work history forms. There are
22 many times where there are sometimes forms in there,

1 and sometimes they're not, you know, just in terms of
2 realities of what happens. Sometimes the work
3 history form is very clear; sometimes it is not.
4 Sometimes the person puts down one word. Sometimes
5 instead of their job description, they will put down
6 the company they work for. So sometimes there is not
7 all the data that we would like to see.

8 So I will review that. I will look for
9 age, education, and work history. Those are the
10 fundamental three things that we're initially looking
11 for. I will go to the hearing. And at the time of
12 the hearing it's really an opportunity to flush out
13 what that work history is, to get more detail, to
14 find out -- I do a basic fundamental understanding of
15 how I'm going to classify that job; but then as I
16 listen to the testimony, it's pretty frequent that
17 there may be adjustments to that. So it's very
18 important at that hearing to get a really good job
19 description.

20 The judge will ask questions of the
21 claimant. The attorney will ask questions. It
22 depends on how the judge's style is. Some of the

1 judges will go first. Some will let the
2 representative start asking questions. And
3 oftentimes, when they get to the work history, many
4 of the judges that they know us well will turn it
5 over to us to really start delving into more of the
6 questions, so that we can really properly classify
7 this job.

8 So as the hearing is going on, most of us
9 are usually working on our computers, because most of
10 us have one computer program or another. Either --
11 most of us have SkillTRAN or OASYS on our computers,
12 and we will be working as the hearing is going on;
13 because as we are hearing the work history, it may
14 shift from what we originally thought it was. So at
15 that point, we're trying to gather that information
16 as quickly as we can.

17 Once we are asked to testify we testify to
18 job title, to the DOT code, to the SVP level, and to
19 the exertional level. That's going to be first what
20 we're going to give to the judge. And sometimes they
21 do it early on. Sometimes they do it all in one
22 shot, and then they go on to the hypothetical

1 questions.

2 One of the things that was mentioned
3 yesterday that I just wanted to touch upon, there was
4 something mentioned in the psychological report that
5 the person was interviewed and didn't seem
6 uncomfortable, didn't stand during the examination.
7 And sometimes these exams -- these psychological
8 exams or physical exams occur very quickly.

9 We often hear how they're 15 minutes long,
10 or whatever. And sometimes there is cultural issues.
11 Sometimes the claimants have to be offered the
12 opportunity to stand if they need to relieve
13 themselves of physical discomfort. Some people
14 culturally just won't take that action. So when they
15 get in the hearing room, we're really getting to see
16 that human being, that person.

17 I think that's one thing that we want to
18 get across, that that's very important that we
19 properly classify these people. We properly look at
20 these people to then figure out how we can take them,
21 as the real person, and put them back potentially in
22 the work world as we testify as to what -- at step

1 four and step five whether they can do their past
2 relevant work, or they can return to other kinds of
3 work based on transferable skills, or to unskilled in
4 some cases.

5 MR. STIPE: Hello, good morning. The next
6 phase of what we're doing there in the hearing room,
7 first of all, the vocational expert will have
8 reviewed the important information. The vocationally
9 relevant information, we call it, which, as Lynne
10 mentioned, is the individual's work history, their
11 educational background, their age -- because age is a
12 relevant issue in terms of whether we are going to be
13 needing to consider transferability of skills.

14 Also, some idea of what the potential
15 residual functional capacity of that individual will
16 be, either from a physical standpoint or a mental
17 standpoint, or more often both are coming up in
18 hearings. And so while the hearing is taking place,
19 the vocational expert is in effect playing
20 administrative law judge. We're in our minds coming
21 up with potential hypothetical questions that we
22 expect to be asked.

1 And the entire hearing process, from a
2 vocational expert standpoint, is based upon that type
3 of hypothetical question, which usually begins with,
4 "Mr. Stipe, I want you to assume." Then the ALJ will
5 continue to provide us with a variety of sometimes
6 very measurable, sometimes very objective
7 information; and at other times less specific, and
8 more general information.

9 So in essence, we're -- they're listening
10 to what the claimant has to say, listening to the
11 attorney or non-attorney representative and the ALJ
12 to further develop the case. We're making
13 adjustments to what we anticipated.

14 I should note, Lynne and I -- and I think
15 it was mentioned yesterday that the case you have
16 been presented here today is a pristine, squeaky
17 clean example that we don't see typically. We
18 generally see a monosyllabic or a very limited
19 description of work history; laborer, factory, and
20 that covers a 15 year period of time. A very, very
21 limited description of what the person actually did.

22 So we oftentimes get to the hearing and are

1 presented with the opportunity to hear discussion
2 that talks about entirely different kinds of
3 occupations that then we were expecting coming into
4 the hearing.

5 So basically, what I would be doing in
6 reference to Suzy is I would be sitting there, and I
7 would be telling myself, okay, she is 54 years old.
8 So I know that transferability of skill will be an
9 issue in this case. If the person was 50 years of
10 age or younger, it would be less of an issue. All
11 the focus would be on is whether or not that
12 individual could actually perform some type of
13 unskilled work. So I know from this individual I
14 would be focused on that age and anticipating that
15 transferability of skill would be an issue.

16 I would be looking at this woman's work
17 history which is semi-skilled and skilled in nature.
18 I would be asking myself what types of skills might
19 be transferable to other types of employment. I
20 would be anticipating a likely hypothetical question
21 wanting me to assume something in the sedentary to
22 light level of work.

1 One issue that we would like to see
2 clarified, and we will talk more about this in a few
3 minutes, is a need to get away from the combining of
4 body position of the sit, walk, stand requirement
5 with the exertional requirement. It's phenomenally
6 confusing and many law judges misunderstand the
7 complex definition of light work.

8 I am often asked, or it's alleged that I am
9 testifying outside of how the government, the U.S.
10 Department of Labor, defines light work when I'm
11 talking about light occupations, which may never
12 require much in the way of standing, never require
13 much in the way of walking; but are only classified
14 as light occupations, because they typically involve
15 work at a standard industrial pace. Work which
16 involves operation of hand and foot controls.

17 So those other factors would, for example,
18 make a parking lot attendant -- when we go through a
19 parking lot and we have to pay that individual, that
20 individual in that kiosk there is typically seated,
21 right? Well, that occupation is defined as a light
22 occupation. Not because that individual typically

1 needs to stand all day, which they don't; but they
2 are operating a cash register. They are performing
3 other types of functions that do not -- that involve
4 those other aspects of that definition.

5 So that's a very important consideration,
6 and I would see that at play here as well, because
7 this woman is not able to be on her feet for more
8 than three hours out of the work day; but she has the
9 capacity to exert -- the capacity to lift up to
10 20 pounds. So I would be thinking to myself that
11 this individual would fall in that betwixt and
12 between category -- that no man's land category, that
13 area where there is so much misunderstanding that she
14 may well be able to do some type of light work, a
15 limited range of light work, in addition to a broad
16 array of sedentary work as those terms are defined.

17 So one of the important issues that I would
18 like to get across is that we need to separate those
19 sitting, walking, and standing requirements from the
20 exertional requirements. I would also be looking at
21 the nonexertional requirements. I would anticipate
22 that the psychologist recommendations as far as

1 minimal public contact, the concentration
2 difficulties, the limitations as far as fast pace.
3 The psychologist does what -- we often see no fast
4 pace in relation to factory work is described, as if
5 that's the only type of occupation where there is a
6 fast pace.

7 We want to see more development there. In
8 other words, it is not an appropriate conclusion to
9 only limit the pace to factory jobs. My question
10 would be, well, how does that fast pace effect
11 clerical types of occupations as well? I want some
12 exploration there.

13 Also, be focused on difficulties with
14 multitasking. Clerical occupations are famous for
15 the need for multitasking, for the interruption of
16 one activity in order to proceed with a product -- a
17 project in another area. And I would also be
18 concerned about responses to criticism.

19 MS. TRACY: So let's talk about what that
20 hypothetical might look like when it really comes to
21 us. Because after the 20 plus years we have been
22 doing this, you know, you get so you know your

1 judges. You know what the hypothetical is going to
2 look like. You can write them yourself.

3 So what's likely to occur with Suzy Que is
4 this, assuming you have an individual who is 54 years
5 of age, has the past relevant work as testified to,
6 with the education that's been testified to, who can
7 sit six and eight hours, who can stand and/or walk
8 three in eight hours, who can lift 20 pounds
9 occasionally, 10 pounds frequently, occasionally
10 stoop, kneel, crouch crawl, and climb. I mean,
11 they're running through this. It's going.

12 The judges may layer on. Just as Judge
13 Oetter spoke of yesterday, if you saw his
14 hypothetical. He gave first the physical; then,
15 slowly he layered on one nonexertional after another,
16 after another. Sometimes they do that. Sometimes
17 they give it to us up front. They will give us all
18 the light with the nonexertional, and then they will
19 go down to sedentary, or they will do some
20 combination.

21 Given this record, what's likely is, in
22 addition to physical, in most cases I think the

1 judges are going to then say, limited public contact.
2 No sustained concentration for prolonged periods of
3 time, one to two hours. No factory production pace.
4 Okay for office pace. Difficulty multitasking. Okay
5 with co-workers and supervisor, except the person may
6 respond inappropriately to criticism. Difficulty
7 adapting to constant or significant changes in the
8 workplace.

9 So you know, in our minds, as we have got
10 this list of what are possible jobs in addition to
11 the past relevant work, each time one of these things
12 are given, it starts knocking out some of the
13 possible options as we go through it. And one of the
14 areas of concern is when you get something like no
15 sustained concentration for prolonged periods of time
16 or one to two hours, that doesn't mean necessarily
17 two hours. It's somewhere in this range. It could
18 be one sometimes. It could be one and a half. It
19 could be two. So you have really got to take that
20 into consideration and start teasing out what's going
21 to happen.

22 So if we look at the jobs that Shirleen

1 gave you from a physical standpoint in terms of
2 transferability of skills from that medical records
3 clerk and medical records technician, and you start
4 looking at order clerk, receptionist -- she didn't
5 talk about that, but it immediately comes to mind.
6 It would have been an appropriate one to consider, an
7 insurance clerk.

8 When you have now got limited public
9 contact, you know, the order clerk is going to be
10 knocked out. The sustained concentration, depending
11 on which one of those clerical jobs, chances are if
12 they can't concentrate and there is project work
13 involved in the job, that one could be knocked out.
14 Obviously, transferable skills if she was working in
15 a factory setting. We would be looking more at the
16 office types of jobs.

17 So from this particular hypothetical the
18 office kind of pace are okay, so we would be not
19 eliminating those jobs based on that, but
20 multitasking, as Scott just mentioned, is something
21 that's very much in these semi-skilled and skilled
22 jobs in the clerical occupations. So that's going to

1 probably knock that out.

2 Difficulty adapting to constant or
3 significant changes. One of the areas that's
4 difficult for us is that the terms are not at all
5 well defined. We will talk about which terms we
6 would like to see better defined; but that's one of
7 those, what are significant changes in the workplace.
8 Frequently, what we have to do is we have to rely
9 upon the judge or the attorney or rep in the case to
10 give us what their definition is. They're pulling it
11 out of the medical, and we're left and they're left
12 to define what that is.

13 Sometimes we don't have -- we definitely
14 usually don't have the detail that we're seeing here
15 where some doctors is actually saying the person can
16 concentrate one to two hours. It's really unusual to
17 get someone to do such as the really well done
18 thorough job that we're seeing here.

19 The other thing I want to comment on is
20 that even though I would agree that basically we are
21 probably down to sedentary. We are somewhere in that
22 gray area, as Scott mentioned, between light and

1 sedentary. In reality, what judges are likely to do,
2 is they're not going to take this person to sedentary
3 in a hypothetical right away. They may give one
4 hypothetical in sedentary. They are more likely than
5 not to give a hypothetical I suggested, which is less
6 than the full range of light.

7 Part of the reason for that is that when
8 their decision comes out, if it goes on remand, they
9 are somewhat held to what exertional range they gave
10 that hypothetical. So if they put it to sedentary,
11 no matter what else comes in later on, they are going
12 to be kept at sedentary. They're going to tend to
13 give possibly two hypotheticals that cover both
14 scenarios, so that they are not held to it. They're
15 going to come at less than a full range of light. In
16 my experience that's usually what the judges I have
17 seen are going to do.

18 So that's one hypothetical that they may
19 give. Now, if you go to 4734, and you have that
20 functional capacity assessment, which was the check
21 the box, then, I think -- one of the gentleman that
22 presented yesterday, I think it was Tom said that

1 this is not, you know, for using for the
2 hypotheticals. It is more the narrative. What we
3 actually see in reality is the judges will read from
4 this, or they will even hand it to us and say, okay,
5 I want you to read this, and that's your hypothetical
6 right there.

7 So now what your hypothetical is going to
8 be, in addition to those physical that I said, which
9 is less than a full range of light, they're going to
10 say, okay, the ability to maintain attention and
11 concentration for extended periods of time are at
12 moderate. Now, one of our biggest issues is the term
13 "moderate."

14 And if you can please get a really good
15 definition of moderate. It's -- there are multiple
16 definitions that flowed around. It's more than --
17 more than slight, you know. If you look at it on a
18 three point scale, because there is a form that says
19 slight, moderate, severe, it's half of severe and
20 slight. So is that 50 percent? We need it more
21 quantifiable.

22 There is language on the forms that

1 describes moderate as not precluding and being able
2 to satisfactorily perform the job, but when you think
3 about it in real logical terms; and again, you look
4 at either on a three point scale of slight, moderate,
5 severe; or there is another form that's got it on a
6 four-point scale, you know, any way you -- and
7 it's -- what is it? It's -- I can't remember the
8 four point scale right off. I don't have it here.

9 MR. STIPE: None, slight, moderate, marked,
10 and extreme.

11 MS. TRACY: Right. So it's just above
12 slight, but still there is a diminution. So
13 depending on what is checked in these boxes, if
14 something is checked like ability to understand and
15 carry out detailed complex tasks at moderate. Okay.
16 So you can see how that's affected the work, but for
17 skilled work, it will probably knock you down to
18 maybe semi-skilled or -- you know, simple
19 instructions, obviously, if it's not checked at
20 moderate, they can still be done. You are looking at
21 those unskilled jobs.

22 But when you get to some of these criteria

1 that are much more significant in terms of performing
2 work, such as the ability to maintain attention and
3 concentration for extended periods, in some jobs that
4 is going to be quite critical to the job.

5 Number 11 is an especially important one.
6 The ability to complete a normal workday and workweek
7 without interruptions from psychologically based
8 symptoms, and to perform at a consistent pace without
9 an unreasonable number and length of rest periods.
10 Now, that's checked at moderate.

11 For me that's very significant. For me
12 that really gives the -- the picture of someone who
13 is going to have problems at times completing their
14 work day. And especially when they look in
15 combination at some of these moderates. If we're now
16 getting down to transferable skills don't work, we're
17 now down to unskilled work.

18 In unskilled jobs, employers are much less
19 forgiving. They're much less likely to allow for
20 extra absences, allow for extra breaks. People have
21 those production expectations, whether it's pace
22 production is a different issue; but there are

1 certain allowances that more skilled people -- such
2 as all of ourselves -- get that unskilled people do
3 not.

4 When you are looking at having problems and
5 getting through that normal work day, even if any
6 diminution, then, it becomes an issue once it gets to
7 the hearing level for us as experts to say, gee, you
8 know, I don't think they're going to be able to
9 sustain work.

10 In this particular one, moderate is also
11 the inability to interact appropriately with the
12 general public. That's why we have got that limited
13 public contact restriction is going to probably be in
14 the hypothetical. You have got to the ability to
15 accept instructions and respond appropriately to
16 criticism from supervisors. Again, why the
17 psychologist probably put in there that there could
18 be problems if there is criticism.

19 You have got the ability to get along with
20 co-workers and peers without distracting them, or
21 exhibiting behavioral extremes. Okay, so if they're
22 working in a team environment or they are on a

1 conveyor belt where they're part of the process, this
2 could be a significant issue in terms of performing
3 those kinds of work.

4 The ability to respond appropriately to
5 changes in the work setting. Again, if they're on
6 project work or -- what employers have gone to now in
7 a lot of their production work, for example, Ralph's
8 Grocery Company -- which I have done lots of job
9 analyses for -- they do a lot of food processing.
10 And because fatigue, boredom sets in, and the
11 physical issues set in of doing the same job over and
12 over of mixing or packaging, they will actually in an
13 eight hour day rotate the people through the
14 different jobs to give the person some variety.

15 So, you know, even in an unskilled packing
16 job, it very well may be that there are changes in
17 the work setting, and what they're doing even in just
18 a day or a weekly kind of thing.

19 So you are now looking at five -- five
20 moderates. And in some of the -- six moderates in
21 some of the critical areas. And that is something
22 that, you know, we would have to consider in this

1 hypothetical. And in the case of Suzy Q, based on
2 the whole record, and the likelihood of the
3 hypotheticals I have talked to you about, the chances
4 are better than not that I am going to answer the
5 hypotheticals that this woman cannot perform
6 competitive employment. That would be my answer.

7 MR. STIPE: As would I.

8 And this issue of the multiple moderates is
9 a very much discussed issue among vocational experts.
10 And hearing yesterday that this is really not to be
11 considered, that the focus is really more on the
12 narrative aspect at the end of this form is the first
13 time in 25 years I have heard that.

14 And I don't think that -- that the ALJs
15 necessarily entirely embraced that, because like
16 Lynne said, we have some that provide a narrative
17 hypothetical, which is much more akin to that kind of
18 orientation. And then there are a few ALJs that will
19 simply hand me this form and ask me to assume that as
20 the hypothetical, which is an entirely different
21 issue.

22 So what I'm concerned about, and this is a

1 matter of controversy between ALJs, and controversy
2 between vocational experts, should each one of those
3 individual moderates or marked's be considered an
4 individual distinct stand alone entity? My position
5 on that is nonsense. That's -- it's only -- the only
6 logical consideration that I could have is that those
7 are not only cumulative issues, but they combine in a
8 geometric fashion.

9 In other words, if we have one moderate
10 limitation in terms of interaction with the general
11 public, and we add to that another moderate
12 limitation in order to -- in relation to interacting
13 with co-workers, another moderate interaction
14 limitation with regard to being able to handle a
15 normal work week; it is not simply chipping away at a
16 few jobs, it is chipping away at huge clusters of
17 occupations. And generally, like Lynne said, any
18 type of competitive employment. So that's an area
19 where we get hit a lot in our questioning.

20 The next thing that I wanted to talk about
21 was transferable skills analysis. A typical
22 vocational expert's day would have anywhere to three

1 or four to as many as six or eight hearings. Like
2 Lynne mentioned, oftentimes we get to the hearing, we
3 review the information on the CD, and we learn while
4 testimony is being given that there are additional
5 occupations identified.

6 Any type of transferable skills assessments
7 that we are doing is on the fly. It's very fast.
8 It's seat of the pants type of transferable skills
9 assessment, and we are making adjustments. We are
10 trying our best to listen to what's going on. We're
11 adding. We are deleting things, because I can't tell
12 you how many times nurses have become nurses aids.
13 How many times administrative assistants have become
14 basic office clerks.

15 We all have problems with this vernacular,
16 with this identification of occupations. An
17 administrative manager, which is a one person office
18 might have a business card that says administrative
19 manager; and that's what she is going to write down
20 on this form. So we're making these adjustments and
21 we're trying our best to do an on-the-fly
22 transferable skills assessment.

1 The issues that we are looking at in
2 relation to the transferable skills assessments are,
3 of course, the exertional abilities that we
4 anticipate are going to come at us in the
5 hypothetical. Both based upon what the RFC is with
6 the DDS, as well as what we hear the individual
7 saying they can and can't do.

8 I think that most vocational experts
9 develop the ability to glean from the ALJs questions
10 and from the attorney's questions how that RFC in the
11 file may change upward or downward in terms of
12 exertional abilities based upon the credibility of
13 the individual, inconsistencies with the individual.
14 Again, either upward or downward.

15 That anticipated medium restriction might
16 end up being a restricted sedentary by the time we're
17 through with the -- with the hearing. I am, of
18 course, looking at other physical demands. I am
19 looking at limitations in relation to bending and
20 reaching and handling activities, visual limitations,
21 hearing difficulties that may not have come out in
22 the file materials, but are coming out at the

1 hearing. I'm taking those kinds of things into
2 consideration.

3 I may be looking at the materials,
4 products, subject matter, and services codes; those
5 MPSMS codes that were discussed a bit yesterday. I
6 may be looking at the work fields, those other codes
7 that were discussed yesterday, to look at essentially
8 what the individual does and did on the job; and also
9 what types of products the individual was associated
10 with. Because those factors make up Social
11 Security's concept of transferability of skill.

12 I would differ with the comment yesterday
13 that aptitudes would have no role in the transferable
14 skills analyses, because they are implicit in the
15 transferable skills analyses. Based upon the
16 foundation that we have as vocational experts that
17 goes something like this, we assume that if an
18 individual has successfully performed a certain type
19 of past work -- we work backwards -- we assume that
20 that individual possess the native abilities, the
21 aptitudes, the ability to -- the general learning
22 ability made of intelligence, the basic ability to do

1 numerical work, to use language, the ability to use
2 their hands and their fingers.

3 We use that as a baseline in our assessment
4 of transferable skills. So it's implicit within the
5 transferable skills analysis to consider aptitudes;
6 and for example, if we have an individual who
7 sustained some type of injury that would affect those
8 aptitudes, for example, that individual has been a
9 mechanic, and now they have had a significant hand
10 injury, we're going to make adjustments in those
11 aptitudes, as well as adjustments to those physical
12 demands, because we know that if that individual has
13 had a substantial hand difficulty, their aptitude for
14 manual dexterity has similarly declined.

15 The other issue is work temperaments that
16 do come into play for transferable skills analysis,
17 because they really are the only way that a
18 vocational expert, in my mind, can adequately address
19 cognitive types of issues or psychological types of
20 issues that oftentimes come up.

21 So with regard to the worker temperaments,
22 we see things likes directing, controlling, or

1 planning the activities of others; performing a
2 variety of work, performing effectively under stress,
3 dealing with people. So I might look at worker
4 temperaments and how the government analyzes that
5 past work to determine did that past work require
6 dealing with people?

7 If we know in Suzy Que's case that she is
8 going to have a difficult time dealing with the
9 public, I might well make an adjustment with worker
10 temperaments, because it's the best way that I can
11 think of, with the existing resources, that I can
12 adjust for those kinds of variables that I oftentimes
13 see come up on the mental residual functional
14 capacities.

15 So basically, again, as Lynne mentioned,
16 with the information that we know about this woman, I
17 would be in all likelihood precluding not only past
18 work, but other types of work that she could
19 theoretically perform in relation to transferable
20 skills in other clerical types of occupations,
21 because of those multiple moderates and their impact
22 on those occupations.

1 Oh, yes, I was also suppose to talk about
2 numbers. Numbers is probably the most discussed
3 issue currently in the vocational area. How we come
4 up with numbers. It's a matter of great debate.

5 Essentially the best way that the
6 government collects employment numbers are based
7 upon the Occupational Employment Survey, which is
8 performed by the Bureau of Labor Statistics. The
9 problem that we have as vocational experts is that
10 that data is highly aggregated. There is 12,700 some
11 Dictionary of Occupational titles, and there are 800
12 and something OES SOC codes, the government calls
13 them.

14 And so with regard to some occupations, I
15 can give you exquisite numbers, if we're talking
16 about a massage therapist where there is one
17 Dictionary of Occupational title in that SOC code, as
18 I recall. But you can imagine my difficulty if I am
19 trying to identify the numbers of small products
20 assemblers, because the SOC code that contains small
21 product assemblers contains 1500 and something other
22 Dictionary of Occupational titles. So the result is

1 a couple of different decisions that a vocational
2 counselor has to make.

3 Do they -- some vocational experts simply
4 do the math. They take the numbers that the
5 government presents in total in that GOE -- excuse
6 me, the OES SOC code, and they divide by the number
7 of DOT codes. Now, some people think that's science.
8 Some people think that's worse than science. I tend
9 to be in the later group, because in every SOC code,
10 there are what I refer to as 800-pound gorilla
11 occupations.

12 My personal favorite example is the
13 government has an occupation by the name of rattle,
14 squeak and leak repairer. This is an individual
15 who -- almost every auto dealership has one -- who
16 finds leaks and squeaks in your new car. So when I
17 bought a convertible, it leaked. I took it to the
18 dealership, and there is actually a fellow there that
19 sits in the car with a flash light and a lawn
20 sprinkler on top of the car looking for leaks. That
21 is a rattle, squeak and leak repairer. That is in
22 the same classification as auto mechanic.

1 So if you are doing the math, you are doing
2 a simple calculation, you are rating that rattle,
3 squeak and leak repairer in equal numbers to the auto
4 mechanic, which, of course, is nonsensible.

5 So many of us vocational experts do our
6 best to identify those 8-pound gorilla occupations
7 within that SOC code, and do our best to come up with
8 estimates of numbers. But you can see the dilemma
9 that we have.

10 As Jim mentioned yesterday, the census data
11 is even worse. It's even more highly aggregated. It
12 combines certain of the -- of the SOC codes. So we
13 have even more difficulty.

14 Did you have a question?

15 MR. WOODS: I do.

16 MR. FRASER: In terms of the assumptions --
17 thank you, sir.

18 I would just like to give you a perspective
19 on the assumptions made by the OASYS publisher versus
20 the SkillTRAN people in coming up with those numbers.
21 I think they weighed them differently. I'm not sure
22 exactly.

1 MS. TRACY: Well, I think you are referring
2 to when a TSA is done how they're weighting them;
3 because, actually, if we're talking numbers -- at
4 least I can speak to OASYS -- it's the OES numbers
5 that will come up when I run that, and it will tell
6 me those numbers; and I can break them down by state,
7 by major statistical areas.

8 The difference is really -- SkillTRAN and
9 OASYS are very, very similar. The differences are --
10 as I understand it from Jeff and Dale -- are how they
11 have weighted certain factors, how they have combined
12 them. They just do it slightly differently. But
13 speaking of that, Jeff Futran with SkillTRAN is
14 actually working on getting us some better numbers.

15 The difficulty is, we're having to deal
16 with what we have as vocational experts in our fields
17 to placing people. We, of course, in all areas, know
18 of employers, and generally where the numbers are;
19 but no one has the time or the funds to go out and
20 really survey how many small employers there are. We
21 may have a general idea. And the way the system is
22 with Social Security now, is whether numbers exist in

1 significant numbers that the ALJ has to make some
2 decisions on. So it kind of puts us in a difficult
3 position. We have to give them something.

4 Unfortunately, what we have had is rather
5 limited, and that's -- I think as your project
6 continues on, at some point the issue is going to be
7 data collection. And we have some thoughts about
8 that, but it's definitely something that needs to
9 continue the process forward.

10 You want to talk about what Jeff is working
11 on in terms of numbers a little bit as best you can.

12 MR. STIPE: Well, yes. Basically, he is
13 looking at -- Jeff Futran with SkillTRAN is looking
14 at numbers from an industry standpoint and being able
15 to look at how jobs come in based upon industry, and
16 essentially cross walking that over to the DOT. And
17 he is going to be producing a -- essentially a peer
18 review type of -- of estimation of employment
19 numbers, meaning that vocational experts can disagree
20 with the numbers that he is coming up with and make
21 adjustments to those numbers; and then over time if
22 enough of us do that, there will be a -- an

1 essentially peer review process that's going on, on a
2 continuous basis to make individual adjustments to
3 those numbers over time.

4 It's exciting. It's very complex. I'm
5 probably butchering the way it's done. I am excited
6 about it. Because it seems to me to be the first
7 real scientific method that is really addressing this
8 major problem that we have with the government's
9 focus on ever aggregating things; whereas, we at the
10 hearings level need to attempt to disaggregate.

11 DR. WILSON: Scott, that was the question
12 that I had for you. You spoke about the aggregation
13 issue, and the OES data. Very simple, how frequently
14 when you are doing your work, do you run into that
15 issue? I mean -- and you mentioned this idea of
16 having an OES wicky with vocational experts, you
17 know, were finding this information as one potential
18 solution. But right now how often is that a problem?

19 MR. STIPE: Everyday. Everytime. Because
20 the typical kinds of occupations that we are
21 generally testifying too, I would say -- we were
22 trying to come up with a number last night; but I

1 would say at least three quarters of the cases that
2 we are called to testify in do not even address or
3 only marginally address the issue of transferability
4 of skill. So what we're really talking to when the
5 rubber meets the road is whether or not this
6 individual can go out and perform some type of
7 unskilled SVP one or two occupations.

8 And so what we're left with is identifying
9 light and sedentary, generally unskilled occupations.
10 So we're talking about various types of assemblers
11 and small products assemblers, and cashiers, and
12 parking lot attendants, and other occupations; which
13 unfortunately, guess what, are in those broader
14 groups of SOCs with many, many DOT numbers.

15 MS. TRACY: So let's talk about our wish
16 list a little bit and why. Okay. We really need
17 quantifiable definitions that are more discrete. We
18 have already talked about moderate. Moderate is a
19 huge one. If we can get something that is more
20 scaled.

21 I actually was on the IOTF, and I was on
22 the subcommittee for psychosocial factors, and

1 cognitive factors; and one of the things my
2 subcommittee, which was all vocational counselors,
3 did, is we did something that was more scaled and
4 broken down into 20, 40, 60, 80, 100 percent. Zero
5 to 100, but break them down into more pieces and
6 giving specific definitions of what in each one of
7 those stages that would mean, what it would like in
8 terms of function; and then an example of what the
9 occupations might look like. Easier for the
10 physicians to be able to answer things. Easier for
11 us to then take that information and be able to
12 answer.

13 So as you are going through some of these
14 definitions, think about scaling maybe in those kinds
15 of ways that are much more applicable and adaptable
16 to putting -- allowing us to translate it into the
17 work world.

18 Never, always, at will. At will? What is
19 at will. We get it all the time. Sit, stand at
20 will. Is that three minutes? Is it half hour? Is
21 it 45 minutes? Is it some combination? Sometimes
22 it's 15. Sometimes it's an hour. I mean, it makes a

1 significant difference.

2 If you think even -- you know, there was
3 mention yesterday about telemarketer, and an at-will
4 person being able to telemarket. Telemarketers do
5 have a head set, but they are also linked to a
6 computer, and they're reading a script off the
7 computer, and they are entering data in as the person
8 they're talking to is actually answering them.

9 So if I have a person who needs to sit,
10 stand in the reality of the world -- and that's what
11 we're now talking about at the hearing level is the
12 reality of the world -- could a telemarketer stand
13 for a moment and sit back down? Sure. But if they
14 have to get up and down every 15 minutes and sit for
15 15, and then stand for 15, and then sit for 15, just
16 in your mind picture what that person is doing in
17 their job all day long. They're up and down.

18 And there is an adjustment that takes place
19 every time someone adjusts their body position. It
20 may be momentarily, but nonetheless, there is
21 something that happens for those kinds of jobs. If
22 they are now standing -- imagine -- and bending over

1 their computer to have to enter that information, now
2 you have got a whole another problem, because it's
3 probably a back injury; and you know, they have
4 already got problems with their back. Now they're
5 having to stand 15 minutes and bend over, it's not a
6 good picture. It's not working well. So sit, stand
7 options are really difficult for us.

8 Now, there is a major discussion amongst
9 our profession about where is that breaking point?
10 We differ to some degree. Scott and I differ to some
11 degree. What's good is to have these discussions
12 amongst ourselves, because we both start thinking a
13 little differently.

14 In California, workers' comp -- and I can't
15 tell you where it came from -- but many years ago the
16 threshold that we just kind of worked with in terms
17 of -- because we had to determine what was called
18 feasibility early on as to whether someone could
19 work. And we would look at an hour -- 45 minutes to
20 an hour of maintaining a body position pretty well
21 allowed someone to maintain productivity. This is
22 really what you get down to in these changing

1 position things. Can they maintain that
2 productivity?

3 So 45 minutes to an hour is an okay thing.
4 Now, Scott is more at 30 minutes on some jobs. If
5 you have --

6 MR. STIPE: It has to do with -- it's very
7 complex, because we're dealing also with this
8 individual's -- what we -- the picture we have of
9 this individual's premorbid abilities. So if we're
10 thinking that this is a pretty high functioning
11 individual who has had some education, and we're not
12 dealing with much in the way of mental impairments,
13 my attitude is that those types of momentary
14 adjustments where the assembler would shift from a
15 standing position to a stool back and forth.

16 MS. TRACY: At a bench height.

17 MR. STIPE: At a bench height.

18 MS. TRACY: Without changing work stations.

19 MR. STIPE: That might be fine for an
20 individual that is functioning at a normal level that
21 doesn't have a mental impairment. But if we add to
22 that other limitations in the hypothetical, the

1 mental impairment, difficulties being around others,
2 maybe that adjustment would expand. Maybe my answer
3 would change, depending upon other variables that
4 would be involved in that particular case.

5 Sorry to interrupt.

6 MS. TRACY: No, that's okay. That's fine.

7 The other one would be like a parking lot
8 booth attendant cashier, because they have usually
9 got a stool, and they can sit and they can stand, and
10 they are at a height where you are not changing your
11 work height at the station that you are working at.
12 So you can slip on and off that stool. So maybe 30
13 minutes can work. But if the Panel can try and get
14 to a place where, what are those reasonable limits of
15 changing positions, it's difficult.

16 Now, when we give you this wish list
17 understand none of us expect that you are going to be
18 able to tackle all of these. There is no question
19 some of this will still have to happen at the hearing
20 level where we're going to have to, based on our
21 experience of placing people and seeing jobs -- have
22 to adjust things. I don't see how that can be gotten

1 away from. But there are some things that you can
2 clearly improve upon. So this is one of those.
3 Where is that breaking point?

4 Another one is -- again, is where we talk
5 about the cumulative effects of the mental limits,
6 the cognition, the psychosocial factors. Those have
7 to be really clarified a lot better for us to do our
8 job. Neck rotation, extension, flexion.

9 I know, Debra, from working many years ago,
10 I know that you threw that into the mix. I know
11 that's going to get handled, but just for the rest of
12 you, that's very important. There is nothing in the
13 DOT that addresses that, and we get that. Of course,
14 when you think about your clerical occupations,
15 people are flexing that neck for prolonged periods of
16 time. Extension for the electrician. They're
17 looking up into the ceiling.

18 Elevation of the legs. Now, in the case of
19 Suzy Que, she has got a knee replacement. She needs
20 another knee replacement. When I am reading that
21 file, it immediately pops into my head gee, in those
22 clerical jobs a lot of times what I have seen is when

1 someone has had knee replacements or knee problems,
2 that bending at that knee at a 90 degree angle
3 sitting at a desk becomes problematic.

4 Some are very easily adjusted with, you
5 know, a phone book under the feet. Some have to
6 elevate those knees higher; but this is one of the
7 things that, you know, we come up against. I'm not
8 sure if the Panel is going to be able to do much with
9 that, but it is something that's going to get asked
10 to us. And of course, when you have got a cardiac
11 condition, frequently the legs have to be elevated,
12 according to the doctor, above heart level. It
13 eliminates jobs.

14 One, two step jobs. What's a one and two
15 step job? And is it -- a really good one is a pen
16 assembler. You take the cartridge -- you put the
17 cartridge -- you take the cartridge as one step. You
18 put the cartridge in the pen; that is two steps. You
19 twist it; now we are at three steps. You put it back
20 down, we are at four steps. What are these one and
21 two step jobs?

22 MR. STIPE: Some judges perceive the entire

1 assembly process as a step.

2 MS. TRACY: As a step.

3 MR. STIPE: Whereas, others perceive the
4 taking the barrel as one step, taking the other item
5 as another step. From a purely vocational
6 standpoint -- a prevocational standpoint, some of us
7 feel that the first step is turning our car engine
8 off and putting our foot on the ground; and the next
9 step is opening the door; and the next step is taking
10 our time card; and the next step is putting the time
11 card in the slot.

12 "What is a step" needs to be defined,
13 because we're getting that question. I want you to
14 assume a one step job; as if there is a one step job.
15 I mean, we will need to be realistic here.

16 MS. TRACY: Keyboarding. Frequency and
17 duration. No prolonged fine hand manipulation. No
18 prolonged keyboarding. Gee, is prolonged keyboarding
19 if the person one time a day has to type up a
20 particular report, but it takes them two hours to
21 type that report and they have to do it solid for two
22 hours; but then they intermittently touch that

1 keyboard for the rest of the day.

2 Now, are they precluded because -- you
3 know, two hours straight clearly is prolonged.
4 What's the definition of prolonged as well? Or if
5 they're doing it intermittently in a day and we add
6 up 15 minutes, you know, every hour; and we add all
7 of that up, and now we're looking at, you know, two,
8 three, hours of the day in an eight hour day, is that
9 prolonged? What does that mean when we're getting
10 down to those kind of definitions?

11 Reaching has to be clarified. There is a
12 difference between reaching over your head, as I
13 think Shirleen mentioned yesterday -- or someone
14 did -- about rotator cuff issues. Difference between
15 reaching over your head, reaching out in front of
16 you, reaching below your waist. Those things have to
17 be more discretely defined.

18 MR. STIPE: The way reaching is defined in
19 the Dictionary of Occupational Titles is any
20 direction. So, in essence, if we do a real
21 transferable skills analysis and we mess with
22 reaching at all, virtually everything goes away.

1 Whereas, the individual may only have a restriction
2 for overhead reaching, and has no difficulty reaching
3 like this, or reaching to the side. So we really
4 need to have those as distinct activities reaching
5 forward, reaching to the side, reaching overhead,
6 reaching at shoulder level, below the waist.

7 MS. TRACY: And then, of course, going back
8 to light keyboarding, just the frequency and duration
9 of hand usage. Because so many jobs -- I mean, the
10 percentage is massive of hand -- of use of the hands,
11 handling and fingering. We're frequently asked
12 about, you know, if someone can use their hands for
13 gross or fine manipulation frequently, we don't have
14 a job. We don't have a problem. But a lot of
15 hypotheticals, a massive percentage are occasional
16 use of the hands. That knocks out a lot of
17 employment. It is very, very significant numbers,
18 especially in unskilled jobs.

19 When you can't use your hands in those
20 unskilled occupations, as Scott mentioned earlier,
21 that's frequently what we're getting down to, you
22 have really eliminated jobs. So we need more

1 clarification and clear breaking things out more in
2 terms of the hand use.

3 Concentration, persistence, and pace. This
4 is very, very important. If you have a ten percent
5 diminution in concentration, is that throughout the
6 entire eight hour day? Or are you like a kid in
7 school that day dreams and looks out the window
8 sometimes for, you know, ten minutes or half hour of
9 the day. How much is too much? Is 20 percent too
10 much?

11 Because again, with the concentration
12 issues, you are really talking -- what that means is
13 it's effected productivity. I mean, we're always
14 talking employers need that employee to be
15 productive. They need to do their job. An executive
16 might be able to stare out the window a little bit or
17 not.

18 The unskilled jobs, some of them may be a
19 little bit, but do you want the parking lot attendant
20 that, you know, loses concentration 20 percent of the
21 time and it happens to be -- it's not when he is in
22 the booth, it happens to be when he is moving your

1 car. These are the kind of things that, again, those
2 definitions are going to be so important to us to
3 really get more in the real work world of where that
4 is.

5 Then, a couple of other things that we get
6 asked all the time, just so you know. We get asked
7 all the time frequency and duration of breaks. This
8 person has to take extra breaks. Well, how much, you
9 know.

10 As vocational counselors working with
11 people with health issues, we have always said to
12 people, you know, we put them back to work and we
13 know your back hurts you, look, just get up as you
14 need to, go to the restroom, go get a drink of water,
15 stand up and stretch, sit back down. Don't, you
16 know, hang a sign around your neck that you are
17 taking a break. But there are clearly times where
18 that break is too long.

19 And in terms of breaks, absenteeism is
20 another one we get asked all the time. What really
21 is that number? The human resource organization has
22 done some studies and it's somewhere 10, 12, days a

1 year seems to be the guideline. But you know, when
2 you get into unskilled jobs there is a lot less
3 allowance by employers to let people take the extra
4 breaks and be absent the more time. So these are
5 things that we're frequently getting asked.

6 Restroom breaks and proximity to restrooms
7 we're asked all the time. Think of the client who
8 has irritable bowel syndrome or has pancreatic
9 cancer, or has Hep C, and is on Interferon. You
10 know, we're going to get asked, can they take
11 restroom breaks this amount of time and be absent
12 from the work -- the job this amount of time? How is
13 that going to effect them? Is it going to eliminate
14 work?

15 MR. STIPE: And we ask ourselves how in the
16 world can any new resource address questions like
17 this? And all I can say is that there will never,
18 obviously, be any resource that deals with all of
19 these myriad of variables that will really require
20 the opinion of an expert who is placing these people
21 and dealing with employers to attempt to try to
22 answer. And there will probably never be good

1 quality verifiable defensible evidence to back up
2 entirely our opinions in these issues.

3 MS. TRACY: And the other last one that we
4 get in California a lot, and I am sure in other
5 states as well, because we have such a high incidence
6 of modeling role or limited English people. SVP, we
7 get attacked on this all the time as it relates to
8 whether that person has that level of schooling as it
9 relates to SVP, because it's something that's really
10 misunderstood in many ways. Or the number of words,
11 as was mentioned yesterday, I believe.

12 So the question coming to me is, so my
13 client has a third grade education, and you are
14 saying that they can perform the job of a hand
15 packer, which is an SVP of two. Ms. Tracy, please
16 read into the record what the GED levels are on that.
17 They have to be able to understand, you know, 1100
18 and something words, or whatever the number is. But
19 my client clearly has a third grade education, cannot
20 do that. This is what we are being brought with at
21 every step of the game when we're answering our
22 questions regarding the hypotheticals.

1 Again, that is something we don't expect
2 you to address, but it's good for you to know that
3 this is what we are having to contend with as you go
4 about your project.

5 MR. STIPE: One factor that I really want
6 to get across, is very important to me, is I can't
7 tell you how much I would love to see the exertional
8 levels once and forever separated entirely from the
9 sitting, walking, and standing. Because there can
10 very easily be a sedentary job from an exertional
11 standpoint that is on one speed the entire day.

12 So I would love to see -- and vice versa.
13 We sometimes see medium exertional demands with an
14 individual who is sitting most of the time, because
15 of certain activities that they are performing during
16 the day.

17 So I would love to see a -- kind of a two
18 letter code, where we see a sedentary, and then we
19 see some kind of symbol that identifies the body
20 position. Is that primarily sitting, or primarily
21 standing "slash" walking? I don't know what those
22 symbols might be. I would love to see that

1 distinction made so that we can forever get away from
2 this endless confusion that we have that all
3 sedentary jobs require sitting all the time, and all
4 light jobs require standing all the time. Because
5 they don't in practicality, and they don't in the way
6 the government has defined those occupations. The
7 problem is that everyone seems to misunderstand them,
8 from our perspective.

9 DR. BARROS-BAILEY: Scott and Lynne, thank
10 you. We are at the break now. You are going to be
11 available at the user panel. We will have the
12 opportunity to ask some questions at that point. If
13 there is any burning question that any panel member
14 wants to ask right now, we can probably go a couple
15 minutes. I just want to be able to keep us on time.

16 Okay. Then we will see you later today
17 during the user panel. Thank you.

18 MR. STIPE: Thank you.

19 (Whereupon, a recess was taken.)

20 DR. BARROS-BAILEY: Thank you. At this
21 point we're going to be hearing from claimant
22 representatives about the case. We have Mr. Art

1 Kaufman. He is a claimant rep with Accu-Pro
2 Disability Advocates; and we have Charles Martin, who
3 is an attorney with Martin and Jones. Welcome both.

4 MR. MARTIN: Thank you.

5 MR. KAUFMAN: Thank you. Thank you for
6 allowing me to present here. I truly appreciate
7 this. This is something that I have looked forward
8 to for probably my entire professional life, because
9 my background is vocational rehabilitation and I was
10 a vocational expert for Social Security for about
11 three or four years back in the mid '80's and
12 determined at that point and time that I felt I could
13 do a job that was at least as good as some of those
14 attorneys that had no clue as to what they were
15 doing.

16 And the premise that I used for getting
17 people on to disability is the same premise that I
18 use for getting people back to work. I go out. I
19 assess the individual. I look and see what their
20 capacities were; what their prior work was; what
21 their education was. Possibly motivation at times.
22 See what their end game was. Did they want to return

1 to work? Didn't they want to return to work?

2 If it's a worker's comp case, get them back
3 to work. Work with a carrier. If it was an LTD
4 case, get them back to work with a long term
5 disability carrier.

6 This is the opposite way to go, because
7 what you are doing is proving not that they can work,
8 but that they can't work. The premise is still the
9 same. The premise is still, is this person capable
10 of returning to a job, and could I find a job that
11 they could sustain? Because those are the two
12 issues. It's jobs, and can they sustain that job?

13 So that's basically what I work towards, is
14 if I can find a person a job in my heart of hearts, I
15 think that person could go to work, and get that job
16 and keep that job; then, I'm going to refer them to
17 vocational rehabilitation and help them get back to
18 work.

19 If I begin working with that individual and
20 their positions, and the positions give me
21 limitations that are consistent with what that
22 individual is telling me; then, I'm going to say,

1 okay, this is probably not a good candidate for work
2 return. Therefore, I will start working in that
3 venue.

4 My computer is not quite on yet. That's
5 all right. I want to tell you all that I love what I
6 do. I think that's it's a fantastic job. And it's a
7 great occupation. And there is very few of us in the
8 country that have my background doing what I do.
9 Most are like Mr. Martin, and they're attorneys. And
10 we fought very hard as far as getting some type of
11 parity in the system, because I believe that many of
12 us qualify to do what we do.

13 Now, what does a representative have to do?
14 What is our end game? And if you look in your
15 folders I have a thing in there, "What is The
16 Representatives End Game?" It's right after my bio
17 there. Not knowing full well what we were going to
18 be talking about here -- and I can talk out of both
19 sides of the hat. From a vocational rehab --
20 vocational expert standpoint and a representative. I
21 felt that the committee's responsibility -- the
22 panel's responsibility is to say, what's the end game

1 here?

2 What is it we need to do as a group to make
3 this work properly for the Social Security system,
4 the people within the government and the tax payers
5 to make it as reasonably -- as reasonable as it can
6 be as far as price is concerned, and things like
7 that? So I would like to go over what the
8 representative end game is. Because as it stands
9 right now, we have difficulties with that end game.

10 The primary role of the representative is
11 to assist the claimant in the provision of evidence,
12 which shows that based upon the individual's asserted
13 physical and/or psychological profile, their residual
14 functional capacity due to medically determinable
15 signs and symptoms -- these are all terms directly
16 out of the Social Security Rules and Regulations --
17 coupled with the knowledge gleaned from past work
18 training or education that jobs don't exist in
19 significant numbers, either in our region or in
20 several regions of the country. Now, that last part
21 is from 20 CFR 404.1560C. Okay. Our region or
22 several regions of the country.

1 Now, what is our region? Well, depends on
2 where you are. But with the national representation
3 that's now occurring via video hearings every
4 vocational expert is going to have to know about the
5 region that the individual lives within and all of
6 the other regions in the country. That's a mighty
7 tall task. You heard the problem that these VEs had
8 a little earlier today in the previous presentation
9 with the difficulties just trying to get it right
10 with the judges that are sitting before them; and now
11 we have to -- they have to determine the numbers of
12 jobs, not occupations, but the numbers of jobs in the
13 local region or many regions of the country.

14 The difference between jobs and occupations
15 I am sure you understand, but it's critical here,
16 because we have -- you are looking at the Dictionary
17 of Occupational Titles. These are 12,740 something
18 occupations. That doesn't tell us how many jobs
19 there are within each of those occupations. But it's
20 the responsibility of the representative to prove
21 that jobs do not exist, not occupations; but jobs do
22 not exist that an individual can sustain.

1 And there is also the difference between
2 sustaining and performing, because Social Security
3 discusses the issue of unsuccessful work attempts.
4 And according to Social Security Ruling 05-2, an
5 unsuccessful work attempt is somebody who is
6 incapable of going back to work and holding that job
7 on a successful level; and they have to leave within
8 three months. So if you start to go to work, and you
9 crash and burn within three months, you take some
10 time off a month or so, and you pick yourself up and
11 you try it again, and you crash and burn within three
12 months; and you try to take some time off and go back
13 to work and you try it again, that's not work. Those
14 are all unsuccessful work attempts.

15 The things that the vocational expert and
16 the DDSs should be looking at is an ability to
17 perform work on a sustained basis. And again, Social
18 Security Ruling 05-2 says sustained is six months or
19 more. So they should really be looking -- and you
20 should really be figuring out how to say you have to
21 be able to hold down a job for six months or more in
22 the positions that we're talking about.

1 Now, yesterday we went through Suzy Que's
2 case; and sure, she probably could have worked a
3 couple of days, a couple of weeks, maybe even a
4 couple of months. But certainly, with the
5 limitations that were described, holding down that
6 job for six months or more is probably not in reality
7 for her.

8 So it's our end game. Our end game is to
9 say a person can work; that's not a problem. The
10 person can hold down a job; that's not a problem.
11 But can they hold down a job and keep that job and
12 earn, at this point and time, \$980 a month; because
13 that's substantial gainful activity. Even if it's
14 part time. I'm not overly concerned if it's part
15 time or full time.

16 You have to be able to work and earn 1,000
17 bucks a month. That's what I am looking at as my end
18 game is to say, can I realistically find an
19 individual a job, and have them be able to perform
20 that job on a regular and sustained basis and earn
21 \$1,000 a month?

22 What does a representative need? We need

1 descriptions of functional limitations that are
2 readily definable, that we can sit down and say I get
3 it. I understand what it is that is required within
4 the occupation, so we can then take that occupation
5 the aggregate of jobs within that occupation and say
6 yes, the person can do -- there might be 10,000 jobs
7 as a parking garage attendant, or a parking lot
8 cashier. And if they have an alternate sit, stand
9 that's required, as we discussed earlier, well, maybe
10 that's going to knock out 10 percent of those jobs.
11 And we have to be able to determine those types of
12 things. I believe that's our end game.

13 So -- and also, as was discussed earlier,
14 mild, moderate, severe; those terms are so nebulous
15 that we have to continually redefine them at every
16 hearing that we go to.

17 One of the problems that I saw yesterday
18 and was discussed was that Suzy Que filled out the
19 form herself, and didn't do -- she did a great job,
20 relatively speaking; but you could see at some points
21 in it where she was really getting exasperated, and
22 answered it "fine" with an exclamation point.

1 Well, what does that tell people that are
2 there? It tells people that are reading it, or it
3 should if you intimate into things, that there were
4 some problems by that point and time. As a
5 representative -- and again, I'm certain that I'm
6 very different than most attorneys and many other
7 nonattorneys as well, we start from the beginning.
8 If a client calls us up on day one, we set up the
9 telephone appointment for them. We complete the
10 forms with them and for them. We don't have them do
11 it on their own. We have been doing this for 23
12 years. We understand what Social Security needs and
13 wants to make decisions on and most effectively,
14 because the quicker this case gets through the
15 system, the more I as a taxpayer see, because we
16 don't have to get to the Administrative Law Judge, or
17 the Appeals Council, or into reconsideration.

18 Where I am, unfortunately, we just went
19 through a whole debacle called DSI; and it was a
20 mess, and we're trying to recover from that. So we
21 fill out the forms, because it's important for our
22 clients to be seen -- to be seen properly by DDS as

1 soon as possible. And we can answer the questions.

2 And I oftentimes will put down -- where it
3 says work history, I will go through it and put down
4 the DOT number. That's all. I will put a DOT number
5 down with a job title from the DOT. Certainly, if it
6 fits. If not, I will come as close as I can. Why?
7 Because it's going to help -- nobody has any guessing
8 games. There is a lot of guessing games that occur
9 in this system. You guess all the way through. Are
10 they going to deny me? Am I going to get accepted?
11 What else do I need? What don't I need? If people
12 could tell us up front what it is we needed to make
13 the case clearly, concisely, the system would move
14 more quickly, and I think we could all save some
15 money.

16 What other things do we need? We need
17 descriptions, job descriptions -- and this is where
18 you will be critical. Job descriptions, which
19 contain well defined essential functions, because
20 that's really what we're looking for. Jobs are
21 combinations of various functions. We need the
22 essential functions of the jobs.

1 But interestingly -- and this wasn't
2 brought up too much with the vocational experts --
3 most of the times that you are sitting in a hearing
4 and the vocational expert responds, it's usually the
5 same 5 or 8 or 10 or 15 jobs that they come up with,
6 unskilled sedentary jobs. There just aren't that
7 many. If you look at the unskilled sedentary and
8 light jobs, administrative notice is taken within the
9 20 CFR, there are about 1700 of them. Well, that
10 rarely occurs. You don't have the 1700.

11 So I can see where the Panel can say, let's
12 get in touch with the vocational experts and find out
13 from the VEs what jobs they typically come up with at
14 every single hearing? And you might be limited to
15 really doing an intensive investigation on 30 jobs,
16 or 20 jobs.

17 The rest of the DOT can continue as it is
18 with modifications; but if we begin to really
19 investigate accurate, readily verifiable and
20 definable jobs that are out there, and numbers, and
21 methodologies to establish where those job exist and
22 what the requirements within those jobs are, I think

1 those are the things that we're going to need from
2 the very beginning.

3 Now, the other thing at a hearing that we
4 do obviously is that, if I'm figuring out the form,
5 I'm contacting the medical people and trying to get
6 the residual functional capacities as I would if I am
7 a vocational rehabilitation counselor. What is this
8 person capable of doing as they go back to work?

9 When I get to the hearing I hope that it is
10 in the language that is required so that the
11 vocational expert can then understand my questions.
12 But we also need good vocational experts.

13 I will be happy later on if we have time to
14 describe a terrible situation that I had with a
15 vocational expert, that I will never allow to sit in
16 a hearing with me again; and the fabrications that
17 this individual arrived at.

18 We need to have these vocational experts
19 paid properly, because if they're not paid properly,
20 you get what you pay for. And everytime, it's my
21 understanding, that the system requires another level
22 of appeal, it is somewhere in the vicinity of \$3 to

1 5,000.

2 So if a bad vocational expert sends
3 something to judge -- because of that it goes to
4 Judge Goldberg, and it has to get kicked back to the
5 Administrative Law Judge, we now have another \$6,000
6 that we're all paying for. So this isn't something
7 that I think we can just sit back and say, okay,
8 well, you know, it's just a system. These are
9 people. These people that we work with, we help. We
10 fill out the forms. We work with them to get
11 their -- their case heard as quickly as possible.

12 The "by" line, tag line for my company is
13 "we make house calls." We work out of our home. It
14 is just my wife and myself. We are a true mom and
15 pop operation. But when we go -- I go to their
16 homes. I sit in their houses.

17 When I do a hearing preparation, it
18 typically takes two hours, two and a half hours; and
19 I do it in their living room, sitting on the couch
20 with the cats and the dogs and the springs broken in
21 the bottom, or in the trailers that have the holes in
22 it. I know when I walk into that hearing room that

1 that person is not capable of holding down a job. If
2 they are, I'm not bringing them there. And I think
3 that's where the end came that the representative has
4 to provide for the Administration.

5 So ultimately, we need a methodology which
6 can reliably and verifiably document numbers of jobs
7 that will consistently remunerate at substantial
8 gainful activity. These are written right here, but
9 I just want to make sure it gets into the verbal
10 record as well.

11 We have to discern the impact of increasing
12 functional limitations upon those job numbers,
13 because that's what the problem is. We have the
14 specific limitations to start with or the capacities
15 of the jobs. Now, we have to continually work to
16 say, what are the limitations that the individual has
17 compared to the potential jobs that exist? And you
18 can probably do it -- as they said, 75 percent of the
19 time it comes back to the same jobs.

20 I think if you just focus on the specific
21 jobs from the vocational experts that are already
22 employed around the country, these people get it --

1 or generally speaking they get it; and utilize those
2 individuals for that. And I will sit back and let
3 Mr. Martin take over.

4 MR. MARTIN: Thank you, Art. I will try
5 not to disturb people. I think better standing up.
6 Neurosurgeon, car wash laborer, psychologist, school
7 bus driver, lawyer, porter, factory worker; vice
8 president, North American Sales for Motorola; fast
9 food worker, jewelry designer, nurse. These are all
10 people I have represented in disability claims within
11 the last couple years. Everyone sitting at this
12 table could be potentially my client. You could be
13 Suzy Que.

14 If you leave here with the idea that the
15 data that you are trying to help collect and figure
16 out how to put in an usable form might be applied to
17 you, well, then I will have done my job.

18 What you saw yesterday was a really
19 interesting picture of what happens in places that
20 nobody ever gets to see. It's not a picture of the
21 real world. This is a picture of the real world.

22 I apologize that I didn't know what was

1 going to be presented yesterday at the time I
2 prepared the materials, and so I had to add this in
3 there. This is not -- this is not directly related
4 to the case yesterday; but it's an example of a
5 recent initial denial notice that a client of mine
6 received. And it's the explanation that the client
7 gives, or that I get saying why this claim was
8 denied.

9 It says, "you said that you were disabled
10 because of bilateral carpal tunnel syndrome,
11 depression. Despite the pain and discomfort you are
12 currently experiencing, you are able to move about,
13 and use your arms, legs, hands and back to perform
14 some limited types of activities. Although you
15 suffer from depression, you're still able to think,
16 communicate, and care for your own personal needs.
17 We have determined your condition is not severe
18 enough to keep you from working."

19 This is pretty typical. The discussion you
20 heard yesterday, and all the debates that go on
21 inside the brains of the adjudicator, and that came
22 out into the open yesterday, the client doesn't know

1 any of that and will never find out any of that.
2 It's not documented in the record. They can't get a
3 copy of the file and find out that any of this stuff
4 went on.

5 They get a copy of the file, of course; but
6 there is no indication that any of this happened in
7 most cases. There might be a copy of a page out of
8 the DOT describing their job, but there is not going
9 to be any in depth analysis. And as you have heard
10 repeatedly from everyone, the type of explanation and
11 the detail that you have seen in this case is way
12 more than -- than is out there. And as we have been
13 discussing, the detail that was in this case was not
14 really sufficient to identify in some cases what the
15 problems were.

16 So I wanted to give you some idea of what
17 happens when one of these people walk into my office,
18 what do we do? They have got this notice. They have
19 just handed me this very informative notice that has
20 a list of doctors followed by this great explanation
21 that says, we determined that you can work. And, why
22 can you work? Well, because we have determined that,

1 and that's the explanation. So what I had to do,
2 interview the client and find out, why in the world
3 is this person disabled?

4 90 percent of the time the client walks
5 into my office, they do not know why they're
6 disabled. They think they know why they're disabled,
7 but they're almost always wrong. It's our job to
8 evaluate this claim, and try to figure out -- this is
9 what this person believes keeps them from working.
10 What are the other factors that go into it?

11 When we do this, we have to have pretty
12 thorough knowledge of the Social Security Act, Social
13 Security Regulations, Rulings, HALLEX, POMS. You
14 have probably heard all these acronyms probably
15 enough to make your head spin. Yes, we, in fact,
16 really do use those in conversation in daily life.
17 We live, breathe, and eat acronyms. And we have to
18 read all the court cases, and understand the case
19 law. Whether you are an attorney or not, whether you
20 actually take cases into court or not, you still have
21 to know these things, because then you will be able
22 to evaluate the facts of the case. You will be able

1 to interview the client and find out what's really
2 going on with them.

3 After we interview the client, we go out
4 and get the medical records. We get non-medical
5 evidence. When I say non-medical evidence, in
6 particular, the most important single piece of
7 non-medical evidence is school records. I tend to
8 get school records in every case. Every case without
9 fail -- well, I try to, you know. Sometimes the, you
10 know, school records were destroyed in the genocide
11 in Somalia, you know. I have had that. I have had,
12 you know, schools blown away by hurricanes.

13 We try to get them in every case, because
14 they help give some insight into what's behind this
15 claimant who is convinced there is nothing else they
16 can contribute to the work force. If they had a
17 determination that they are disabled by some other
18 legal body, whether it be worker's comp, the VA, even
19 an insurance company, we have to get those, because
20 Social Security has to at least evaluate there was a
21 reason why the VA may have assessed a 60 percent
22 disability due to post traumatic stress disorder or

1 something.

2 I mean, there is a basis for that. We have
3 to know, even if Social Security isn't bound, it is
4 still some evidence. Once we got it, we have to
5 analyze it. We have to look in there and see, what
6 are the subjective complaints they complain of? I
7 apologize, it's not quite as literate as I would
8 like. Yes, I do write for a living, but I put this
9 together really fast.

10 What I mean is, we have to look at the
11 specific limitations for this claimant. How is this
12 specific individual limited? We heard some of the
13 presenters from the DDS talking about what kind of
14 limitations you would expect a person to have.
15 That's not legally relevant. In a disability claim,
16 the question is not whether a hypothetical average or
17 ideal individual would be disabled. It's whether
18 this specific person, whether Suzy Que herself is
19 disabled.

20 So we have to look at her medical history,
21 at her diagnoses. We do look at the objective test
22 in the clinical findings, but we also look at, what

1 about her education. What's her cognitive level?
2 What is her working experience, and her cultural
3 background? Yes, the cultural background is
4 important. It helps determine how well this woman
5 can adapt to new things.

6 If she is from a different culture -- we
7 heard earlier, sometimes from our vocational panel,
8 if you don't consider the culture background, you
9 might not know that this person would consider it
10 rude to get up and stretch their back in a
11 psychological evaluation, for example. I have found
12 that many -- there are many narrow cultural groups
13 that will come back with -- that will always be seen
14 as malingers if they're evaluated by a psychologists
15 who isn't familiar with their background.

16 I had a whole stream of cases where my
17 clients were diagnosed with a Puerto Rican syndrome.
18 Well, I didn't know what it was, but I found a
19 psychologist who did understand. And it was a type
20 of a somatoform disorder where these people who have
21 had it would believe they had a seizure, but they
22 didn't have a seizure; but it was a way -- it was the

1 only way they felt they could extract themselves from
2 a difficult situation.

3 These cultural factors are often very
4 important. The emotional stability, the family
5 supports can help determine the extent to which
6 people can overcome the limitations of their
7 disability. Make no mistake about it, the difference
8 between the people in this room and the people who
9 are in my office lined up waiting to get disability
10 is a lot smaller than you may think.

11 It's not always just a physical problem.
12 In fact, it's almost never just a physical problem
13 that makes people disabled. For ten years I was the
14 attorney for the Client Assistance Program for the
15 state of Georgia. My boss was a quadriplegic. By
16 any objective measures, he was disabled or was he
17 disabled? No, he wasn't disabled. He was my boss.

18 It's a combination of cultural factors,
19 family supports, and the physical factors that cause
20 people to be disabled. And some of these things are
21 not really going to be easy to measure. Others of
22 them we must find a way of measuring them.

1 Once we have sort of an analysis -- if we
2 know what -- we have a theory of how we think this
3 person is disabled by their impairments, then we go
4 out and get new evidence. Well, what do I do? What
5 kind of new evidence do I get? Well, at this point
6 you saw in the DDS determinations or assessments, RFC
7 assessments, that they make certain assumptions about
8 the doctor's opinion. They threw out Dr. Beene's
9 opinion, because he didn't explain parts of it, and
10 they didn't know what he meant by other parts of it.
11 Well, this is where we come in.

12 I don't know why they didn't pick up the
13 phone and ask him; but that's what I do, pick up the
14 phone and ask him, what did you mean by this.
15 Explain it, tell us exactly how much walking. And I
16 will typically send him a form and say, you know,
17 okay, I don't want to take a long amount -- a large
18 amount of your time. Just check off a box, you know.
19 Can they stand and walk less than 15 minutes, more
20 than six hours. Give us some clear idea.

21 And that's the job of the representative,
22 is to go out and help quantify this, and get some

1 answers. The meaning of the words, it can be
2 important; but what's more than important is getting
3 a specific opinion -- getting a specific description
4 from the claimant exactly what are her boundaries of
5 her abilities and her limitations.

6 We have to help the clients understand what
7 it is that makes them disabled, and what is it is
8 that the judge -- in most of the cases that we're
9 involved in, what does the judge need to hear? It's
10 not going to be helpful to the judge for the client
11 to be talking about -- about the numerous medical
12 problems that she has that don't contribute to the
13 functional limitations that prevent her from working.
14 She may have a lot of significant medical problems
15 that don't disable her. That don't even contribute
16 to the disability.

17 Very seldom will high blood pressure or
18 hypercholesterolemia -- there are dozen of diagnoses
19 that may produce significant medical problems that
20 don't produce a functional limitation. And if we
21 don't help our clients understand, don't talk to the
22 judge about those things, talk about the things that

1 really help, then, we won't be doing them any favors.

2 We have to protect their due process rights
3 in the course of the hearing. Sometimes that's hard
4 to do. We all heard yesterday in the -- when Judge
5 Oetter presented his thoughts about the case. He had
6 come up with an idea that there was evidence that --
7 that Ms. Que had restricted her activities due to her
8 economic situation, her lack of money.

9 Well, in trying to protect her due process,
10 of course, the basis of due process is that when some
11 evidence is being used against you, you have a chance
12 to respond to it, and to challenge it, and to
13 overcome it. But how would she know that the judge
14 was thinking that? He probably wouldn't tell her
15 that he was thinking that.

16 I went through word by word all the
17 evidence in this case, and there is not one word in
18 there that says she restricted anything based on her
19 finances, except she said I have less money to manage
20 when asked if it affected her ability to manage
21 money. Well, yeah, I don't have as much to manage.
22 That was the only thing that was reduced because of

1 money.

2 What the representative has to do is sort
3 of figure out and guess these things, and try to
4 address them; and if possible, try to get them out on
5 the table to question the claimants, the witnesses,
6 to make legal arguments. All of this to preserve
7 issues for appellate review in the case that we
8 aren't persuasive enough; and sometimes we're not.

9 Sometimes after the decision we have to
10 analyze them for appeal merit, and everybody does
11 this. Even people who don't actually do court
12 appeals, analyzes these cases to determine, was there
13 legal error? They have to consider should it be
14 appealed to the United States District Court? If
15 it's lost there, should it be appealed to the Court
16 of Appeals? If it's lost there, should it be
17 appealed to the Supreme Court?

18 The Supreme Court of the United States
19 doesn't hear many Social Security cases. They hear
20 one or two a year about. But that has to be a
21 consideration every time there is an adverse
22 determination. Of course, when a court agrees, and

1 issues a claimant a favorable ruling, the
2 representative has to make sure that that's enforced.

3 Now, I hope that wasn't to -- didn't take
4 us too far off track, because I want to come back to
5 the information.

6 First of all, briefly, what kind of
7 information do the representatives need? I already
8 said it, we need very clear, well defined
9 limitations. I love asking doctors to give answers
10 that are in numbers. I want a number. Don't just
11 say "moderate." Some judges are familiar with the
12 fact that -- I dispense with all those numbers,
13 because there is so many debates of what does fair
14 mean? What does moderate mean? What does poor mean?

15 I think a lot of these limitations can be
16 reduced to what percentage of the full eight hour
17 work day can the person satisfactorily perform this
18 activity? And so many of the forms that I use now
19 are based on a scale, 100 percent to zero percent.
20 In some way they need to be well defined. Because
21 otherwise, you know, you get these kind of delicious
22 rationalizations we heard yesterday about oh, if you

1 check off these boxes it doesn't mean anything.

2 Well, of course, it means something.

3 I mean, it's a fantasy to think that a
4 doctor is going to be looking through a form, is
5 going to check off "moderately limited," but he
6 doesn't really mean moderately limited. He does mean
7 moderately limited. That's why he checks it off.

8 Yes, the RFC is the RFC. There is an
9 explanation of it. If you read the form itself it
10 says, "explain in greater detail the limitations you
11 checked off above." It doesn't say, pretend you
12 didn't check them. Of course, you did check them.

13 If you have a limitation that is indicated
14 on the form, there has to be some sort of
15 explanation. Our job is to try to get more specific
16 limitations documented in the record than the vague
17 forms that you saw in this record. This record, I
18 think most of us would agree, was a pitifully
19 developed record in comparison with what we would
20 want to go to a hearing on.

21 There is no way that I would go to a
22 hearing in this case without having a specific

1 opinion from at least two of Ms. Que's treating
2 physicians, saying exactly what they believed her
3 limitations were, and the extent to which they
4 believed her pain interfered with her cognitive
5 function, and her other abilities.

6 So our job is to get those specific
7 limitations so that they can be compared to
8 something. So that they mean something. Then we
9 need to go to the vocational stuff. This is sort of
10 the meat of the job of this Panel. We look at the
11 physical demands. We have to look at the positional
12 demands. We have to develop the sensory demands -- I
13 didn't hear anybody talk about that, but, you know --
14 sometimes I learn things.

15 I went to a hearing with a vocational
16 expert in Atlanta called Pete Smith. Great guy, very
17 knowledgeable, been a vocational expert for years.
18 You know what he taught me? If you have a mild
19 hearing loss, you can't operate a bull dozer. Who
20 would have thought it?

21 Many jobs have sensory requirements. They
22 have visual requirements. You have to be able to --

1 in this case you have to be able to hear the machine
2 when it starts idling, so you don't destroy your
3 employer's \$500,000 machine. Nobody is going to let
4 a person with a hearing loss operate that big heavy
5 equipment.

6 You also have to look at the environmental
7 demands. It is not uncommon, becoming more common
8 for people to have asthma working around certain
9 environments.

10 I'm not going to go back over the
11 manipulative demands, but those are highly important
12 in jobs that don't involve a lot of heavy exertion,
13 which most of the jobs relevant to disability
14 adjudication don't. They're mostly light and
15 sedentary.

16 We need to have a way of clearly defining
17 the skill requirements of the work. Yesterday we
18 heard some discussion about skills. We saw a
19 comparison and a transferable skills analysis, but I
20 would like you to think back to that analysis,
21 discussion, and there was a comparison of the past
22 work and some other jobs that were found in the DOT.

1 If you think back on it, what I made a note
2 of was that we were comparing a task done in the past
3 work with a task done in the new work without any
4 discussion of skills. No skill was identified in
5 either job, nor was there any investigation as to
6 whether the job to which those skills allegedly were
7 transferred, the job that was similar, whether it
8 actually utilized those skills.

9 You did hear the correct legal requirement
10 yesterday that the skills of past work has to satisfy
11 the requirements of the new work. In other words,
12 they have to do everything. They have to prepare you
13 for everything that's going to be required in the new
14 job. Nobody ever looked at that yesterday, and
15 that's not unusual. That's our job in the hearing is
16 to try to bring that out and see, what exactly are
17 the skills. What facility did the person learn by
18 doing it on the job, which is going to prepare them
19 to step right into this new job that they have never
20 done before?

21 It is not just the same -- it is not the
22 same as identifying tasks. It has to be a skill. It

1 is not a task. It is not a trade. It is not just
2 knowledge of something. That's knowledge. That's
3 not a skill. Skill is something you do.

4 You have to look at the cognitive
5 requirements. Those are -- they're fairly easy to
6 measure now, but they're very difficult to compare to
7 actual jobs based just on information in the DOT.
8 There is really some helpful information, though.
9 You were told yesterday the GED requirements in the
10 DOT. Those just don't have anything to do with the
11 jobs, you know. That's just -- some crazy lawyers
12 make this argument that a person is limited to simply
13 task, can't do a job as a surveillance systems
14 monitor. Well, hold on just a minute here. I'm one
15 of those crazy lawyers that make that argument, quite
16 successfully, thank you very much.

17 This information is not irrelevant. Let me
18 just read you what it says. The GED-R3, which is the
19 general educational development and reasoning that is
20 required for surveillance systems monitor is this,
21 apply common sense understanding to carry out
22 instructions furnished in written, oral, or

1 dichromatic form, deal with problems involving
2 several concrete variables in or from standardized
3 situations.

4 Does that seem unreasonable to you when you
5 think about it in the terms of the surveillance
6 system monitor? To look at a screen to try to figure
7 out what the relationships of the people are on the
8 screen, what the people are doing. You know, that
9 could be pretty difficult even for people who are not
10 in pain, who are not having trouble sitting in one
11 position. This is a very legitimate requirement of
12 that job. How does it distinguish that job from
13 other jobs? Well, let me read you the two lower
14 levels.

15 A GED-R of two requires the ability to
16 apply common sense understanding to carrying out
17 detailed, but uninvolved written or oral
18 instructions. Well, imagine a cashier in a fast food
19 restaurant. It is not complicated, but it's very
20 detailed. You have got all these buttons, and you
21 know, it's not difficult. They have got -- each got
22 a picture of the food nowadays, but they didn't when

1 the DOT was made. But it's very detailed, and you
2 have to get all the details right.

3 Well, doesn't it seem like you would
4 require someone to be able to do detailed tasks?
5 That's different from being able to do simple task.
6 So I strongly disagree that the GED-R requirements or
7 classifications in the DOT are not relevant to the
8 job. The lowest level in the DOT is the simple one
9 and two step instruction jobs of GED-R1.

10 Well, it is important to define what a step
11 is; but we all know that there are jobs out there
12 that are very, very simple, and a vocational expert
13 can find them for us. This is one of the -- I think
14 it's a very important classification that needs to be
15 considered in any future occupational classification
16 system. And I just have to descent from the view you
17 heard yesterday that that's not a relevant
18 consideration. I think it's a very relevant
19 consideration.

20 I do agree that the educational
21 requirements in terms of the reading and the
22 language -- I mean, the language and arithmetic, and

1 that sort of thing, I think some of those are
2 probably unrealistic; and the way they're classified
3 is less useful than it could be. And the reason is
4 they're not classified based on -- based on a test
5 instrument that is validated and normalized.

6 And my suggestion would be that as you go
7 into looking at what types of things should we look
8 at for occupational classification system that you
9 focus first on those things for which there is a
10 test, which has been validated and normalized. If
11 you cannot say what the results of the test mean for
12 a particular job, then, it is not very useful.

13 So we have great tests for educational
14 requirements -- for educational achievement; and we
15 can give people a RAP, and tell you exactly what
16 their grade level reading is, their grade level on
17 math is. That's the way jobs should be classified
18 based on something that we can actually test and get
19 a result for, and then do a direct comparison. Yes.

20 MR. WOODS: I want to react to that,
21 because if I were in your position, I would use GED
22 exactly the way that you suggested to do it. A point

1 that I feel is important is this is an example of the
2 Dictionary of Occupational Titles. The GED was
3 introduced at a time when that was a significant way
4 of getting the equivalent of a high school education.

5 MR. KAUFMAN: Can I interject here. I
6 think the problem that we're having is that the
7 utilization of the term "GED" there is a graduate or
8 equivalency diploma, which is what folks get when
9 they don't graduate from school. Then, there is the
10 GED, which is the General Educational Development,
11 which is what people have as far as the jobs are
12 concerned, what are the requirements of reasoning
13 math, and language. I think if you look at those two
14 things, that's where the issue becomes a little
15 cloudy.

16 If we're talking the GED that -- for the
17 DOT that has reading, math, and language, those
18 requirements, I, as a vocational person, do see those
19 are relevant.

20 MR. WOODS: What I am raising, though, is
21 the issue of the GED from a testing instrument
22 standpoint. You say something that is measurable.

1 In what sense do you see that as being a measurable
2 item that you relate back to individuals?

3 MR. KAUFMAN: I see it as reading, math,
4 and language. There would be specific reading, math,
5 and language tests, or that are given, so that an
6 individual -- so that you can read the 20 CFR and
7 make sense of it, or you can read a newspaper and
8 make sense of it.

9 MR. WOODS: I'm wrestling with what kind of
10 information we need. Why -- I'm going to say it in a
11 proportional method relatively smaller proportion of
12 the population is going to have that from a
13 measurement standpoint. I want to compare that to a
14 high school degree. We talk about a high school
15 degree. We make no effort in terms of having more
16 detailed information. Yet, we use something like the
17 GED that you know, we're saying is measurable. I'm
18 trying to figure out how to relate that back to
19 individuals and give that kind of weight that we
20 don't give weight to high school -- this is not a
21 challenge. I'm trying to figure out how we can look
22 for equivalent, measurable kinds of information.

1 MS. KARMAN: Can I just interject. I'm
2 wondering if maybe --

3 MR. WOODS: Save it for the Panel?

4 MS. KARMAN: Yes. I'm wondering if
5 maybe -- if this don't help, then, just ignore me.
6 But the revised handbook for analyzing jobs defines
7 the content model that the DOT uses is something
8 called Generalized Educational Development, which is
9 what they're referring to.

10 Are you talking about the use of the GED as
11 it stands as a proxy for high school education, which
12 is different?

13 MR. WOODS: The measurement -- it is not
14 coming on.

15 MR. MARTIN: We can pick it up later. For
16 people who have a high school education or higher,
17 high school is probably enough. But for a lot of the
18 people who are having trouble adapting to what the
19 DDS determines is a minor impairment, you know, let's
20 face it, if you aren't going to work with your
21 muscles, you are not a good heavy laborer, you have
22 got to use something up here, and it becomes much

1 more important to measure that.

2 We have educational achievement tests that
3 will help determine the level of function that
4 someone has in their specific -- you know, in the
5 specific areas of language and arithmetic and in
6 reasoning. These are things that we can test and
7 easily get a valid, normalized result that can
8 actually be compared for that individual person.

9 I wanted to talk briefly about where we
10 should get information that we're going to use this
11 system for. In Social Security's policy, I'm not
12 sure it came out so clearly yesterday. Their policy
13 is that the claimant is the primary source of
14 information about their past work and about their
15 limitations. This is both a legal requirement and a
16 practical requirement.

17 Just imagine going to see the doctor,
18 because you feel ill and having the doctor walk in,
19 and look at you, get -- take an x-ray, take some
20 blood work, and give you a prescription. I mean,
21 that never happens, and it wouldn't be competent for
22 a doctor to do that. He has to ask. And that's

1 because it's the nature of reality. People are very
2 complex, if you don't ask.

3 As far as I know, there is no test out
4 there that's ever been designed by science that is as
5 accurate in determining functional limitations as
6 asking the claimant what can you do. As far as I
7 know, there is nothing out there that is more
8 accurate and valid than that test.

9 A lot of times people are afraid other
10 people are going to lie, but you know, I defy you to
11 find any study out there that has found that asking
12 the claimant gives you accurate and valid answers
13 less than anything else, because I don't think there
14 is anything out there that is as good and accurate as
15 asking, so you have to ask them. Yes, you have to
16 look and see if there is a medical basis for it; but
17 you have to get the information from them.

18 When we're looking at their past work and
19 their ability to do the past work, it is not some
20 hypothetical, high pollutant past work based on the
21 name of the job. It is what this person actually
22 did. Now, it may not be the specific requirements.

1 The law allows the government to look at how that
2 work is usually done by other people, but it is the
3 work that person did; and you can't just sort of look
4 in the DOT to find out what they did.

5 That's what we heard a little earlier this
6 morning was if we don't know what the claimant did,
7 we will look at the DOT. That's legally incorrect.
8 You have to ask the claimant what it is. Of course,
9 the DDS does vast numbers of claims. It would be
10 very hard for them to call the claimant in every
11 case, but they are legally required to do that.

12 Here, what we had was a fairly offhand
13 determination that Suzy Que was not credible. That
14 she was not telling the truth. Essentially, she was
15 lying. But I didn't hear anything that she said that
16 was contrary to any other piece of evidence in the
17 file. The only example that was given was she said
18 she uses a cane, no doctor mentioned a cane. But
19 what does she actually say? She said, I used the
20 cane to go to physical therapy. Do we have the
21 physical therapy notes? No, we don't have those.

22 Did she say she used the cane to go to the

1 doctor? No. Did she say a doctor prescribed the
2 cane for her? No.

3 Well, has anybody ever had pain and pulled
4 a cane out of the umbrella basket for a day or two,
5 because they were hurting a lot? I mean, I certainly
6 have. I have got a cane in the umbrella basket by my
7 back door, and I use it when my back acts up. I
8 didn't see anything in that that affected
9 credibility.

10 What I am saying is the claimant is one
11 that needs to be looked to find out what it is
12 they're able to do. Then when you are looking at
13 other work where that becomes an issue, you know,
14 then we have to have something -- we have to have
15 something else. Social Security's official answer
16 right now is the DOT. Obviously, we know it is
17 outdated. It needs to be updated.

18 I love the explanation or suggestions that
19 Art had about that. I mean, it's absolutely true
20 that it would be a complete waste of resources to try
21 to replicate the DOT. Why? Because 99 percent of
22 the jobs in DOT are not relevant for adjudicatory

1 purposes.

2 No vocational expert has ever mentioned
3 most of the jobs in the DOT, but there are a few
4 jobs, and there are a few categories of jobs that are
5 used all the time, and those are the ones that we
6 need a lot more valid updated data on. I think by
7 narrowing down the focus, the scope and scale of this
8 task can be made more realistic, more reasonable.

9 Yes, James.

10 MR. WOODS: The question I had, because I
11 think that's -- could be a very extremely significant
12 point for what we look at. Not that down the road
13 Social Security might not move to a larger system,
14 but if there could be an initial focus on those that
15 appear most frequently, might -- I am just positing
16 this -- when something else appears, when we're in
17 the process of developing a more detailed system, you
18 get, for example, while it might be rare, you have a
19 neurologist on there that maybe in those cases if
20 they're rare enough, that a special study or
21 something is done to try to deal with that case at
22 that point and time.

1 MR. KAUFMAN: I think -- I personally feel
2 that we have staff people right now that understands
3 the skills that are required of neurologists.
4 They're called vocational experts. So I see the
5 vocational expert permeating the entire system versus
6 just at the hearing level. Where if you need a
7 highly skilled individual and you need somebody to
8 discern what the skills are, the skill set that
9 brought you that job, that vocational expert can be
10 consulted, video, hearing -- there is lots of
11 electronic stuff going back and forth right now to do
12 that.

13 One of things that I also want to say --
14 because I know I'm going to get cut off in a
15 second -- that I didn't, is there is some Social
16 Security rules that the entire process is suppose to
17 follow, and they're called the process unification
18 rules. The Social Security ruling is 96's; it is
19 96-1, I believe, through 96-9. 96-8 is critical,
20 because in that it says that work is the least that
21 one can do, not the most.

22 What we heard yesterday was the most that

1 that individual could do, not the least. We know
2 that that individual will have difficulty at some
3 point in time holding down that job. I think the
4 vocational experts have agreed on that. I think that
5 the representatives have agreed on that. And that's
6 where the problem lies. If the rules were all
7 followed consistently through the process, I think we
8 would be in fine shape in many areas.

9 I still think that we need to get down to
10 those final knitty gritty 30 to 50 jobs or whatever
11 they are that are frequently cited with the specific
12 limitations, and drill down into those jobs to
13 determine what's required; and we can then determine
14 what could be good and what could be bad as far as
15 work is concerned.

16 DR. BARROS-BAILEY: I know you are almost
17 done. Let's go a couple more minutes.

18 MR. MARTIN: I am down to my last line.
19 It's on the same subject that Art is talking about.

20 DR. BARROS-BAILEY: Okay.

21 MR. MARTIN: I have an anecdote. Being a
22 lawyer and a southerner I have to have one.

1 You all don't see me wearing hats. Well, I
2 have a lot of hats. When I wear one of my hats I am
3 actually a software programmer. An odd combination,
4 but what am I going to do? It's what I do.

5 One of the things I learned in writing
6 computer software is that you spend 10 percent of the
7 time doing the first 90 percent of the work; and
8 90 percent of the time doing the last 10 percent. I
9 see that analogy working really well for this Panel.
10 You can take care of 90 percent of the cases with a
11 ten percent effort. The number, of course, means
12 nothing; but the point is you can cover the vast
13 majority of situations just by studying a very small
14 slice of the job market. And if you have available
15 to you the correct expertise to handle the remaining
16 ones, you can still get to where you need to go.

17 Art made a really good point here. I want
18 to repeat it to emphasize it. The qualifications of
19 the vocational experts are critical. In fact, Art
20 and I were talking about how it's a problem at times
21 for vocational experts to allow their experience and
22 knowledge to grow stale.

1 There are systems available for certifying
2 people in that field. One of them is a CRC. There
3 are a number of ways. That's probably the most
4 widely accepted way; but I think if we're going to
5 place such great importance in VE's and to -- as part
6 of attacking this problem of having old and invalid
7 data, put a greater burden on them to deal with these
8 last 10 percent, we need to look carefully at their
9 qualifications and credentials. And that's it for
10 me.

11 DR. BARROS-BAILEY: Thank you. Go ahead,
12 Sylvia.

13 MS. KARMAN: I just have a couple comments.
14 Thank you very much, both of you.

15 One was, you mentioned -- I believe it was
16 Charles -- you mentioned the skills transfer
17 distinction and that -- it's becoming apparent to me
18 that we're -- as our Panel moves along, it is going
19 to be incumbent upon us to really define what skills
20 mean, because the description that was given
21 yesterday is, in fact, how we look at skills; and we
22 do look to the tasks and the job and the way the job

1 is accomplished, and it is what gets done. So that's
2 actually not that dissimilar from what you mentioned.

3 So what I am thinking is that, it's a
4 little bit more than semantics. I think it's really
5 that we need a definition. That's something that we
6 need to work on. Because -- anyway, I just think
7 that there is a disconnect there. I think -- what we
8 heard yesterday is, in fact, what we do. And then,
9 also, you mentioned the issue, if I heard you
10 correctly, that, you know, you were hearing that
11 we -- if we don't know what the person did in their
12 past work, we just look it up in the DOT.

13 Well, we have an assessment at 4-A and 4-B,
14 or what we call 4-A, 4-B, which is as the claimant
15 performs his or her job, and as it's performed
16 generally in the economy. I think that's, perhaps,
17 what you were hearing this morning was how it is --
18 how they perform it; and if that is not something
19 that we can get from the claimant, if they are not
20 able to give us more information about that, and/or
21 they are unable to do that, then, we move on to the
22 next part of step four, which is to look at it

1 generally in the economy, which I know you know. But
2 that is just something I thought I would clarify.

3 And then, also when I look at 96-9-P, it
4 does say the RFC is the individual's maximum
5 remaining ability, not the least that they can do.

6 MR. KAUFMAN: 96-E.

7 MS. KARMAN: In 96-9-P, it talks about the
8 RFC being the individual's maximum remaining ability.

9 MR. KAUFMAN: But work according to 96-8-P
10 is the most that -- work is -- 96-A, work is the
11 least one can do, not the most. That's the quote.

12 MS. KARMAN: I guess I was hearing RFC. So
13 anyway.

14 MR. KAUFMAN: No work.

15 MS. KARMAN: Okay. Then, just to get at
16 the issue about the jobs that you all are hearing
17 over and over again that are being cited. Yesterday
18 I mentioned this -- and I know we will probably talk
19 about this again tomorrow a little bit -- but some of
20 the work that we getting ready to do is -- is we're
21 initiating a study of our claims in which we're
22 actually going to look at the kinds of jobs that are

1 cited both at the initial level and at the appellate
2 level in certain denials and framework denials. And
3 try to get at just what you are talking about, so
4 that we can have, when we get out and do our initial
5 data collection, some occupations that are going to
6 come to the top of the list. So that we can validate
7 those early on, and perhaps have, you know, an early
8 win for the project to get something out in terms
9 of -- at a minimum, guidance; if not also guidance
10 and data. So anyway, thank you for your time.

11 MR. WOODS: I think that study is going to
12 be very informative. I was wondering if there might
13 be any value of having some VEs that have a lot of
14 experience maybe just give us what could be a very
15 preliminary working list. Just something internally
16 that would not be held to, but as we start to look at
17 the different elements that are collected we could
18 maybe have a small subset to focus on just for
19 purposes of moving alone. Not to define that
20 ultimate list. Just throwing that out.

21 MS. KARMAN: Thank you. I'm trying to turn
22 this back on.

1 Yes. Absolutely, Jim, I agree. I think
2 we're going to do that.

3 Actually, Mary and I had talked about
4 having some more user input and expanding our efforts
5 in that area, which we had planned in any case; but I
6 think this is a -- you know, tomorrow is when we get
7 to the point in the deliberations where we're talking
8 about the plans for the Panel, where we're moving on
9 to next, we're going to be covering that. I think
10 absolutely to be able to touch base with
11 professionals who are out in the field on a daily
12 basis, that would be -- that's certainly something to
13 do, where we can pull in some of that.

14 Also, it comes to mind, several times this
15 morning we have heard the issue about moderate, and
16 the markings on mental RFC form. I thought I would
17 just mention that one of the things we do -- and here
18 is the distinction, again, between policy and what is
19 going on now versus what we might need in the future,
20 which is sort of outside of our policy if we're
21 looking to the future.

22 Right now we make an effort in Social

1 Security to try to explain to our adjudicators that
2 if they are just simply marking the boxes on the
3 form, that does not suffice in terms of providing an
4 explanation for why they have marked those boxes.

5 So when we say -- when one hears, you know,
6 merely marking the boxes is not that meaningful, it
7 is because we want that explanation on that -- you
8 know, in that third section that gets at why it is
9 moderate. Why it is, you know, limited? Why
10 whatever it is? Because the ratings themselves are
11 not a percentage of the time in the day or that sort
12 of thing. I just thought we would just clarify that.
13 That they're meaningful in context. And if you do
14 not -- if the adjudicator, from our policy
15 standpoint, does not provide the context, then, what
16 is one to do with the boxes when they're marked?

17 So I'm kind of actually hearing also from
18 the VEs earlier this morning that really we're
19 probably on the same page with that, because, in
20 effect, if there is a whole -- if somebody has marked
21 a whole list of things as moderate, that must have
22 some meaning. And so one has to be able to express

1 that in the record in the case file; and that's
2 really where, I think, the presenters were with that
3 yesterday, was just saying if you are going to do
4 that, you need to explain it. So.

5 MR. MARTIN: I put up on the screen one of
6 my responses to my hatred of the word "moderate." I
7 asked the treating and examining sources to give
8 opinions that are in numbers where possible. If you
9 can say, you know -- if moderate has a meaning, then
10 you should be able to tell me whether the person can
11 do this 100 percent of the day in a satisfactory
12 manner. Can they do it 20 percent of the day.
13 Moderate, I would think, would be somewhere in
14 between there.

15 And a vocational expert then who knows that
16 they can do this task 80 to 90 percent of the day has
17 a lot more to work with, than they would if they just
18 had moderate. I'm not sure that's helpful to you at
19 your task, but it is just response in concern over
20 having undefined terms be the determining words in a
21 decision making process, focusing on things that have
22 no diminution. You know, it's sort of down the

1 rabbit hole.

2 DR. BARROS-BAILEY: Thank you. We're going
3 to have the opportunity to ask further questions of
4 the Panel this afternoon. So I want to thank
5 Mr. Kaufman and Mr. Martin for your presentations
6 this morning. And go on to our next presenter who is
7 Mark Wilson, who is the Chair for the Taxonomy
8 Subcommittee, who will be presenting perspectives in
9 terms of the work of that subcommittee.

10 So he is an Associate Professor of
11 Psychology at North Carolina State University, and
12 obviously, on the Panel with us. So I will just turn
13 it over to him in a couple minutes after he get set
14 up.

15 DR. WILSON: Excellent. Well, for those of
16 you who weren't here last time when I introduced
17 myself, my name is Mark Wilson. I'm an industrial
18 psychologist and panel member. I would like to take
19 the opportunity to thank the Social Security staff.
20 They have done an excellent job of organizing these
21 meetings. Very impressive. I know how much work
22 that is. I just want them to know that I appreciate

1 it.

2 I would also like to thank the opportunity
3 to thank all my predecessors. There has, obviously,
4 been an enormous amount of effort in trying to get us
5 the information that we need presented to us, and I
6 appreciate that.

7 I am very excited, having heard from a
8 number of users, to get out into the DDSs and talk
9 with the judges personally. As you will see when we
10 go through this presentation, I do a lot of work
11 analysis for different purposes, and I describe
12 myself as a practitioner who has been trapped inside
13 an academics body.

14 Both in terms of my research and my
15 orientation to these kind of problems what that means
16 is, is that I am really interested in a very
17 functional approach of how this information is
18 developed and utilized by the people out there in the
19 field. That is sort of my primary concern. And a
20 lot of my research is focused on that, trying to
21 figure out how, through various psychometric
22 techniques and other methods, we can improve work

1 analysis information, improve the accuracy and
2 validity of that information.

3 So it's exciting to be here. And while,
4 you know, it's a little premature, I think it's fair
5 to say that the good news is, is I have heard a lot
6 of things where I have think science has moved along
7 to the point where we have got a lot of answers here.
8 We can help you out with a lot of these things. Make
9 this a more consistent work information system. We
10 have a lot of knowledge, some of which I am going to
11 go over here in just a second, that I think will be
12 helpful.

13 The bad news is I think I have been keeping
14 score, we are about halfway through the second
15 meeting. I think this is the first time you have
16 given a stack of slides and a microphone and a
17 clicker to an academic. So I know you all are
18 thinking about lunch right now, but you need to be
19 very afraid, because no one is getting out of here
20 until I am done with this.

21 I also want to thank my subcommittee Panel
22 members, Jim who is here -- and is Shanan on the --

1 no. Shanan is off getting a teaching award today, so
2 I think she will be with us tomorrow. They have been
3 very helpful and very tolerant of the process that we
4 have gone through.

5 Basically, today what I want to talk about
6 is three things. I have noted a number of
7 discussions about terminology and usage of terms, and
8 that came up just a few moments ago in terms of what
9 various things meant. I apologize for the first part
10 of this presentation for those of you who are very
11 familiar with work analysis, but I think it's
12 important that we kind of go through and establish,
13 at least from my perspective, what a number of these
14 issues are.

15 So we will spend some time on what is work
16 analysis? As part of my response, the last time I
17 was asked to provide some sort of basic information
18 about what is work analysis, where can you go for
19 more information? So that's the other part of this.
20 And the second part is, there is some other documents
21 that I could provide to the Panel on the history of
22 this topic, and things of that sort if they're

1 interested.

2 So we will start off with a brief
3 discussion of fundamentals of work analysis. The
4 second thing is look at the work of our subcommittee
5 in terms of the methodology that we're using to look
6 at work taxonomies, what that is. And then the third
7 thing is, the evaluation criteria that we have come
8 up with so far. And all of this, of course, is
9 advisory to the entire Panel. And it's -- I consider
10 it a real honor to be on the same Panel with a number
11 of people far more distinguished than I am.

12 All right. So here we are. Leroy, we have
13 got concerns about Leroy. We don't know what he does
14 anymore. This is an accurate description for vast
15 amounts of work now in the economy. We're dealing
16 with a job description system that is 20 years old.
17 While for a time, when it was originally designed, it
18 was a pretty good approach. By today's standards
19 would probably not be exactly what we would do.

20 So the issue is, how do we learn more
21 about -- where do we go from here? What are -- oops,
22 I'm sorry. I pressed the wrong button.

1 So I want to do a little brief overview of
2 work analysis and layout some issues here, and the
3 first thing we're going to do is define what work
4 analysis is. We're going to look at two important
5 models that kind of place work analysis within
6 various frameworks. Talk about the basic decisions
7 that have to be made in this work analysis process
8 that we're going to go through. Look at systems of
9 job analysis, which are sort of various approaches
10 that have been tried in the past; and what the
11 advantages and limitations of those are.

12 And then, you know, the basic task, among
13 others for Social Security when they use this
14 information, is making various kinds of job
15 comparisons; and some of those issues came up today.
16 So we will talk about some of the underlying
17 challenges that one faces in terms of making job
18 comparisons, and try to make that as precise and
19 consistent as possible.

20 All right. So there is our definition of
21 job analysis, and that's pretty broad; collecting
22 information about jobs, by any means, for any

1 purpose. So that involves a lot. And I suspect that
2 there are people in this room, even though I have
3 done quite a few, who have engaged in this activity a
4 lot more than I have. So there is a lot of
5 expertise. There are a lot of different things, all
6 of which fall under the general category of work
7 analysis.

8 The other thing that I think is important
9 is to sort of place work analysis in the context of
10 the organization, and the framework that is used by
11 industrial organizational psychologists look
12 something like this. Where this is sort of our area
13 of expertise, if you will. We're trying to
14 understand the individual, the organization within
15 which they are embedded, and the larger environmental
16 factors; which both of these things are embedded.
17 And work analysis is one of these interactive
18 elements that the individual in the organization are
19 both involved in trying to determine.

20 So -- and some of my colleagues will
21 emphasize this point to greater or lesser levels of
22 detail in terms of how much of the job is determined

1 by the organization, and how much by the individual,
2 things of that sort.

3 So this is kind of an orientation of an
4 industrial organizational psychologist. If you go
5 out into the field and talk to people who are
6 practicing, they're more likely to see something like
7 this, a human resource system model where job
8 analysis is functional. It is the initial stage
9 before you can do almost anything else.

10 And one of the things that's exciting for
11 me being on this Panel is this is one of the few
12 cases in which job information and job analysis
13 procedures really are the end state. It is not
14 foundational in the sense that it's on the way to
15 something else. It is a critical piece of
16 information in and of itself. And the way I try and
17 drive that point home is, you know, when was -- for
18 most people anyway, when was the last time you went
19 to someone's new house and they grab you by the hands
20 and say, oh, come over here and look at my new
21 foundation. Isn't this pretty, you know; and go into
22 great detail about.

1 So it's often ignored. It is assumed that
2 this has been done right, and in many cases it's not.
3 And the system that you see outlined here has for
4 your -- taking pity on you, there are a lot of other
5 arrows that could be in here. If you have an
6 academic, you are going to get lots of boxes and
7 arrows. That is just a fact of life.

8 The point here is that you could take job
9 analysis and draw an arrow to every other one of
10 these functions. All of them have as input into
11 activities that they engage in job information. So
12 it really is central. It really is fundamental. If
13 you mess this up, if you don't execute well in job
14 analysis, it's going to impact a lot of other things.
15 So big, important issue here.

16 I guess -- these are important decisions
17 one has to engage in. When one is doing work
18 analysis, the first thing is to figure out what the
19 heck you are doing. You know, what is the purpose?
20 Why are we doing this? If I had a lot of time, there
21 are lots of issues around multi-purpose job analysis
22 we could talk about, but that's not really germane

1 here, so we will move on; and we'll talk a little bit
2 more about what I perceive the purpose here to be.

3 Once you figure that out the next issue,
4 which has come up repeatedly through our discussions,
5 is what level of detail do we want to go in and
6 discover about the work? That's, obviously, another
7 important thing, and we will talk a little bit more
8 about that in just a second.

9 The third, which is also come up is this
10 idea of source. Who is the source? Where do you get
11 this information? What should you believe? How
12 should you verify sources? Things of that sort. So
13 we will talk briefly about that.

14 Modality hasn't come up a lot, but how do
15 you actually collect this information, especially on
16 the scale that we're talking about, the important
17 issue? And then, finally, which I like to emphasize
18 is very important is once you have done this and
19 hopefully up front we have established some criteria
20 that will allow us to evaluate the work and determine
21 whether or not we have done a good job.

22 So how do we know, in terms of the work

1 information we have collected, whether it's working?
2 What are those criteria? What are we using? And we
3 will talk a little bit about that as well.

4 All right. So here is what I understand
5 the purpose to be, a job analectic information system
6 describing all available work. In other words, some
7 discussion about maybe that all available part. I
8 think we need to explore that very carefully, because
9 that's going to be a key issue here in terms of what
10 we describe. The way I describe it, all available
11 work in the U.S. economy for disability
12 determination.

13 Secondly, the ability to withstand both
14 legal and scientific challenges. We just heard from
15 some of the representatives. And I, in my role as
16 subcommittee chairman, attended a couple of National
17 Academy of Sciences meetings. I can already envision
18 some time in the future being hauled before them and
19 have to explain why we did what we did. So those are
20 what I see as the primary purposes that are driving
21 this system.

22 I made the mistake last time, which I

1 regret, using the word "daunting" to describe our
2 purpose and our task. But the issue of why me? Why
3 am I here? I think that someone with my background
4 and my orientation is uniquely qualified to help you
5 address some of these issues. Again, as I said,
6 because I tend to take the orientation of the
7 practitioner and the end user. That's what I think
8 we need to keep our eyes on. That's where we need
9 to -- we need to solve the problem and not get too
10 grandiose about it. We need to make sure that we do
11 our due diligence.

12 The second part of "why me" is we need to
13 be honest with ourselves. This is not an
14 insignificant undertaking. This is not going to be
15 easy. This is not going to be quick. I think there
16 are some quick wins of things we could do relatively
17 rapidly; and I think we should have explored doing
18 those; but if we really do want a defensible and
19 scientifically credible job analytic information
20 system that describes all work, that's a big task.
21 It's doable, but it's not something that you are
22 going to pull off overnight.

1 All right. So here is the level of
2 specificity issue. Several of these came up today;
3 and unfortunately, elements has gotten cut off.
4 That's sort of what the ergonomist do. It's below
5 task there. For some jobs the number of elements --
6 I once sat in a room that was manufactured defining
7 building fighter jets, and they had a bunch of
8 industrial engineers identifying every last movement
9 in the manufacturer and assembly of a fighter jet.
10 And you can imagine the number of individual
11 movements involved. There are thousands of them. So
12 if you multiply that times all work, that gets to be
13 a pretty serious undertaking. So, obviously, we are
14 not going to go there.

15 Tasks, I'm not going to belabor this point,
16 because I will have an example a little later on.
17 For most jobs, the way we analyze them -- and I like
18 to take people through when I do a training
19 program -- through a little exercise where we do a
20 task analysis of the grocery checker; and it's always
21 very revealing in terms of it's a job that everyone
22 has observed multiple times. You still find a lot of

1 errors and inconsistencies and things of that sort
2 when people do a task analyses. Task analyses tend
3 to involve several hundred tasks in many cases for
4 lots of different kinds of jobs.

5 Duties. The next three areas you see all
6 are up in the less level of detail, fewer of them.
7 Really the only difference here in terms of the
8 specificity is where these things come from. Duties
9 tend to arise out of the specific organization, the
10 specific industry and are in the language of the
11 worker. Whereas the generalized work activities and
12 job dimensions tend to arise more out of scientific
13 theory, taxonomic work that's been done by others,
14 things of that sort.

15 But the idea here -- to be honest with
16 you -- this is probably going to be the sweet spot of
17 any kind of analysis we do. We're going to have to
18 hit it somewhere in here if we are going to do all
19 work in the U.S. economy. We can't do a hundred plus
20 task analysis for every job. I know you would like
21 that, but -- and that might be useful; but we're just
22 not going to be able with the resources that I

1 imagine we will have to do that.

2 Then on up, things that aren't really as
3 relevant to us, but in terms of detail looking at the
4 job and the position. The point between
5 distinguishing between a job and positions illustrate
6 that individuals do have a lot of impact on the work
7 and can change it significantly. But we're more
8 interested in what I would refer to as the job; and
9 in any organization there can be anywhere from a few
10 up to hundreds or even thousands of jobs.

11 Then groupings of similar jobs is called
12 occupations. Now, the interesting thing about
13 government analysis and labor economics is we have
14 invented even more -- and this came up in this
15 morning's presentation -- even more molar aggregates,
16 occupational units, and other large groupings of
17 work. I left those off here, because industrial
18 psychologist tend to not deal with those. If we get
19 up to the occupational level we're happy. Certainly,
20 from a functional standpoint a lot of times highly
21 aggregated data, just as other presenters said it, is
22 not particularly useful for the issue at hand here.

1 All right. In terms of sources of
2 information, you see them all there. There are
3 discussions about different levels of desirability of
4 this. I just wanted to lay these out here. All of
5 them have positive aspects. All of them have been
6 criticized in various ways.

7 The general decision that often times gets
8 made in the kinds of projects I am involved in -- we
9 would like to involve as many sources as we could,
10 and triangulate the sources and things of that sort,
11 we would be happy. But these are the general sources
12 of information that are available that we have to
13 pick from in terms of populating our database.

14 In terms of how we collect the information,
15 cut to the chase here, most likely we're going to be
16 looking at some sort of mixture of observations,
17 interviews, and surveys, and those are sort of the
18 standard approaches. There are people writing
19 about -- you heard talks about wickies and web -- at
20 least hints of that sort of stuff.

21 I think we are on the threshold of a
22 technological breakthrough in terms of -- my only

1 hesitation in terms of those sort of things is that
2 they're so new, would this be defensible information?
3 Is this something that we want to adopt right now?
4 I'm not sure. It's certainly something we want to
5 keep our eye on and leverage as that comes along.
6 But in my experience, direct collection of
7 information from people who have been trained or who
8 are clearly identified as subject matter experts is
9 probably a defensible way to go. So that's how we
10 collect it.

11 Let's now talk just a little bit how we
12 defend it. These are sort of the typical evaluation
13 criteria that we use. Let me talk just a little bit
14 about each one of them. Acceptability is what I like
15 to call -- the marketers call this the dog footed
16 test. And what they mean by that is that you can
17 call it whatever you want, but if the dogs don't eat
18 it, it's not dog food.

19 So if the end users aren't happy -- if they
20 throw up their hands at whatever instrument that we
21 put in front of them oh, my God, you have spent how
22 much and this is what you came up with. What

1 university do you come from? Things of that sort;
2 then, that's a big issue.

3 It's one of the reasons I want to get out
4 and talk to the users. I want to understand their
5 concern. I appreciate all the information that's
6 been provided to me; but it's -- very first thing
7 when I got appointed to this Panel was to ask to go
8 out and spend time with these people. It is
9 absolutely essential to get at that issue.

10 Utility is slightly different. Sometimes
11 confused with acceptability. Utility really goes to
12 purpose. Are we substantially increasing the
13 efficacy of this process? Can we through developing
14 a system purposely for disability determination, can
15 we improve the utility of the system? I think we
16 can. I think we can substantially. So we have to be
17 able to make that arguments.

18 Shelf life, I don't know -- they're big
19 debates in our field about what -- you know, how
20 often should information be refreshed. But I'm just
21 going to just go on record right now that I am pretty
22 sure it's less than 20 years. I'm not going out on a

1 limb there. So that's important.

2 Then, we get into some issues of which I
3 and other members here have been closely identified
4 with, the more of the sort of psychometric qualities
5 of job information; and I will get to some of this
6 later on, but some other presenters today have sort
7 of talked about the instability of information. And
8 are there ways that we can increase the precision of
9 the information that's collected? The answer is yes,
10 we can. And what I would like to do now is just kind
11 of give you three examples of different approaches.

12 And what these really are, are combinations
13 of answering all these questions I just asked you.
14 So what's the purpose? How we're going to collect
15 this? Who is going to be involved? What kind of
16 evaluation criteria are we going to be concerned
17 about? Things of that sort.

18 You can see here we have three systems
19 which we want to talk about, which illustrate kind of
20 different pros and cons of different approaches.
21 Functional job analysis, something called CODAP,
22 which deals with task data; and then examples of

1 generalized work inventory. I'm going to go through
2 these relatively quickly, but if we have time maybe
3 this afternoon if you want to get into more detail on
4 any of this, I would be absolutely thrilled to do
5 that.

6 Rational functional job analysis can be
7 very familiar to some people. This is the basis of
8 what's referred to as the Dictionary of Occupational
9 Titles. The dimensions -- the level of specificity,
10 the dimensions that are used in the functional job
11 analysis approach are rationale. And what we mean by
12 that is somebody made these up. They might have
13 spent a lot of time with users, and they may be
14 highly useful; but this is someone's ideas of what
15 should be looked at. And so you have the famous data
16 people things, and worker instructions, and you have
17 analyst going out looking at this information,
18 collecting fairly detailed task information, and then
19 making a number of judgments. And this is an example
20 of a -- you know, some functional job analysis output
21 that would be familiar to anyone who has looked at
22 functional job analysis information.

1 What they call a task down there is not --
2 this is, again, where some of this -- I didn't want
3 to spend a lot of time on it -- some of this
4 confusion about what is a task? What is a skill?
5 What is an attribute? What's an ability? All these
6 terms gets bandied about. I would refer to this more
7 a task sequence or something. There are a whole
8 bunch of tasks in here, but for rating purposes these
9 get combined as kind of a stimulus material for the
10 person to make judgments about how much things and
11 how much data.

12 I am preaching to the choir. You know more
13 about all this probably than I do, in terms of the
14 Dictionary of Occupational Titles.

15 Second approach, a little different, which
16 you may not have seen, is a task inventory; and I
17 have heard some calls for that. That we need more
18 highly specific detailed information, and then you
19 get everyone's list. And the list isn't always the
20 same, but we can analyze those lists for commonality
21 and see to what extent some of that information can
22 be provided; but, you know, if I'm -- if I wanted to

1 go to court, I want as much and specific of
2 information as possible. The more the better.

3 So give me each task that this person
4 performs. How frequently? How much time do they
5 spend? How difficult is it? How long did it take
6 them to learn it? They're any number of different
7 rating scales that can and have been developed here.
8 It's used for a lot of purposes. It's particularly
9 useful for developing training. Teaching people how
10 to do the work.

11 In several of the presentations, what
12 caught my attention was the heavy use of DOT task
13 information to make comparability judgments between
14 jobs, and things of that sort; and "A" that
15 information is getting pretty old; and "B," as you
16 will see there is some issues with task measurement
17 that we may not have time to go over in depth, but
18 may potentially be a source of concern if you are
19 using that information to make decisions.

20 The -- here is the example. I am guessing
21 this is -- I spent a lot of time -- I'm actually
22 pretty comfortable here, even though I am sitting

1 with people behind me. Usually when I am presenting
2 job analysis information, people have unconcealed or
3 concealed weapons on them, and things of that sort,
4 and know how to have various restraint procedures
5 that if they don't like you, they can put you in a
6 hurry if they want to go to lunch.

7 But what happened here is -- and of course,
8 this would be multiplied by a number. Just as an
9 example, you may ask this person, oftentimes a job
10 incumbent or some subject matter expert, how
11 important is this task? How much time you spent on
12 this? How difficult is this task? When did you have
13 to learn it?

14 So you could spend significant amounts of
15 time and effort both in the development of this
16 information and collecting it if you wanted to
17 operate at the task level of analysis in order to
18 understand the work that's going on in our economy.

19 Would this information be useful?
20 Absolutely. Would this be an area where if I was
21 going to encourage wickies and develop some sort of
22 procedure for the development, and identification,

1 organization of task information, absolutely. I
2 think that's an area where new information technology
3 and social networking of job related information,
4 things of that sort would be highly useful. Is it
5 something the government is going to have the ability
6 and resources to collect? I don't think so. Not in
7 the traditional ways anyway in which this is
8 collected.

9 The approach that we might not have heard
10 about that tends to be based more, as I said, on the
11 theories of work is this idea of generalized work
12 activity questionnaires. There are various ones.
13 I'm going to get more into this later, so I'm not
14 going to belabor the point now. The ideas is that
15 rather than having a job specific questionnaire where
16 the person who is taking it readily would say oh, you
17 know, this is my job. They have got every last task,
18 or at least more of them that I do there.

19 Can we do something that really is meant to
20 apply to all work that is enough detail so that it's
21 recognizable? One of the problems with these
22 generalized approaches in many cases is that they're

1 designed by people like me who describe work in
2 rather abstract terms, and the end user oftentimes
3 and adjudicators don't see anything that even looks
4 like work in there to them.

5 But there has been progress here. There
6 has been work in terms of find generalized work
7 activities that have behavioral components that are
8 clear and things that subject matter experts would
9 understand and recognize, if not all, at least big
10 components of the work in a survey that's meant to
11 apply to everyone. That's a key point.

12 That information -- a common metric for
13 every job will turn out to be highly desirable. Why?
14 Well, for a number of other reasons we can do
15 normative data studies. We can introduce the magic
16 multi-various statistics, and statistical modeling,
17 and things of that sort to make all kinds of
18 fantastic predictions and assessments, and things of
19 that sort once we have enormative database,
20 especially enormative database that includes all
21 works.

22 Here is an example of what one of these

1 questionnaires might look like. You can see in this
2 case it is certainly not as specific as the task data
3 I have shown you a minute ago; but it does have
4 things like, you know, as part of your job, do you
5 work in pairs? I mean, that's not bad. We can maybe
6 argue about some of the wording here, and we could
7 have experts look at that sort of thing; but I can
8 imagine I could answer that. I think a lot of people
9 could. As part of your job, do you work in teams?
10 So on and so forth; but one questionnaire, a series
11 of items that are generalized descriptors of the
12 basic behaviors that go on in the workplace that
13 could be normed and studies could be conducted based
14 on that. That might be highly useful to the
15 application we're talking about here.

16 Now, the last issue with regard to an
17 overview of job analysis, sort of the fundamentals is
18 the metric is very important. That issue has been
19 brought up several times today. This is one where
20 the calvary is on the way. We hear you. We
21 understand this. This is something that we are very
22 good at. That problem is not going to be around much

1 longer. We can fix that problem. This idea of
2 development and use of metrics that have zero points
3 on them, and things of that sort.

4 We can argue about what the best way is,
5 but that -- now you are -- you got the right guy on
6 your side of the issue is work measurement precision.
7 That's something we can help you out with.

8 Level of specificity also matters. If you
9 are going to make comparisons across jobs. The idea
10 here is to make direct comparisons and to reduce the
11 amount -- there is always going to be some
12 inferential leaps here in any kind. I don't want to
13 in any way minimize the role of experts in this
14 process. I think they're going to be important.

15 But on the other hand, we shouldn't make
16 their job any harder than it needs to be. To the
17 extent that we can develop and defend a common metric
18 that allows them to make more consistent comparisons
19 at a greater level of detail in certain areas where
20 they want to, the easier this cross job comparison
21 is, the better for everybody. The better for Social
22 Security and their decisions, the better for

1 practitioners out in the field. So that's sort of
2 the goals. That's one of the positive things about
3 taking sort of a generic work behavior approach.

4 I brought along just a little example here.
5 I apologize for the graphics here; but just gives you
6 some idea if you have a common metric for a series of
7 jobs -- in this case it's a various physical
8 attributes from Fleishman's taxonomy of physical
9 abilities, where along the top you have different
10 abilities, static strength, explosive strength,
11 dynamic strength, so on and so forth. Then down the
12 axis on the left-hand side here, you have some
13 metric, which I want to jump ahead here -- oh, we
14 don't have a zero point. That's a bad thing, but we
15 can fix that. I promise.

16 The idea here is this is sort of what we're
17 going for is some sort of generalized set of
18 descriptors with defensible metrics that will -- our
19 cross job comparison -- comparable, so that we can
20 deal in terms of relative position to make job
21 comparisons, things of that sort. So all this
22 precision stuff, all this concern about psychometric

1 quality of data, all those are things that we have
2 expertise on; we can help you out with.

3 So that concludes the fundamentals of job
4 analysis, and about what I think is an half hour I
5 went over what's normally about a day's workshop. So
6 consider yourselves lucky. I really do have your
7 interest here at heart in terms of getting to lunch.

8 Now, I want to spend just a little time
9 talking about our subcommittee and what we have been
10 doing to develop a methodology to identify a taxonomy
11 of work for Social Security Administration. And the
12 first thing I'm going to do, because I'm an academic,
13 is define what a taxonomy is. Standard thing in
14 every lecture, we got to define that. So I will talk
15 just a little bit about that. I will then talk about
16 how we identified existing taxonomies for study.
17 What our comparison process is at this point. How we
18 are proposing to evaluate those; and sort of a heads
19 up as to where we are at this particular point.

20 All right. With regard to the issue of
21 defining a work taxonomy, here is my definition. Can
22 be empirical or rational or some mixture of both.

1 Depending upon who you talk to, there are positive
2 and negative benefits to both of these. My view,
3 again, has to be from a functional standpoint. I
4 don't really care where you got it. Does it work?
5 Does it get us to where we need to go? Things of
6 that sort.

7 You would think this would be an area where
8 there would be extensive scientific research, but for
9 reasons, which I will talk about in a minute, there
10 aren't. And that's one of the exciting things for me
11 is any pilot study we do, any attempt will be far
12 more comprehensive -- we will know more in a year or
13 so from now about work taxonomies, and the underlying
14 dimensionality of those than exist in the current
15 literature, just because of the scale of the nothing
16 like this has been tried. And most currently active
17 work analysis, people's careers.

18 It is meant to be comprehensive. In other
19 words, a taxonomy should take on all commerce. If
20 you think about taxonomies in the biological world we
21 do have some problems now. I assume you have all
22 heard about the weird tubes that are down at the

1 bottom of the ocean. You know what I'm talking
2 about.

3 The idea is that they're not really plants
4 or animals. That's kind of the first big split in,
5 you know, whoa. We have a biological phenomenon here
6 that we can't fit into our taxonomy. That tells you
7 something about -- there is something fundamental if
8 you come across examples that it doesn't -- your
9 taxonomy doesn't work on. So we want this to be as
10 comprehensive as possible, because of what the charge
11 has been.

12 Primary purpose is classification. We're
13 trying to slough this. You heard a lot about
14 aggregation issues. There is always going to be some
15 aggregation. Like I said, if you listen to some
16 people, everybody is unique, everyone puts their own
17 unique identity that no two jobs are the same,
18 because no two people are the same. So there is
19 always going to be a certain amount of subjectivity
20 and aggregation, but you don't want to go too far
21 overboard with that or you get into all kinds of
22 problems.

1 It can also vary in level of detail. You
2 can have things as simple as three rationale
3 dimensions, data people things, or work temperaments
4 or whatever. Or as you will see in our subsequent
5 effort, ones that are meant to be considerably more
6 involved with that.

7 They can also classify different things.
8 They can classify the sort of characteristics of
9 work. They can operate at sort of the sub-job level.
10 Take some information, some set of descriptors that
11 we have about work, and use that to classify it. Or
12 there are several national information systems that
13 are meant to classify things -- what I would refer to
14 as sort of the job title. Not knowing any of the
15 specifics. Knowing only that someone is a plumber,
16 where do they fit in with the SOC? Or you know,
17 someone sent me the New Zealand system a couple days
18 ago, and I was looking at that.

19 So -- and that, unfortunately, at a weak
20 moment when we met earlier, I think our committee is
21 going to be taking on both of these issues, the
22 taxonomic systems that analyze work, and then what

1 some people refer to as a classification problem.
2 This sort of job title approach to classification.
3 Where does this fit into these more molar
4 descriptors?

5 To that end, one of my colleagues on the
6 committee is much more knowledgeable about sort of
7 labor economic analysis of work, and things like the
8 SOC; and we have requested some time for Jim at the
9 next meeting to sort of explain these more molar
10 approaches to job title classification, and he has
11 agreed to do that. So we will explore the pros and
12 cons of that later.

13 Now, another thing -- the last point on
14 taxonomies, which is a key point -- is most often the
15 actual descriptors that can pose the taxonomy are not
16 the level of which information is collected. So
17 these are simply descriptors, if you will. In many
18 cases there may be considerably more detailed
19 question that will be slotted under each one of the
20 general taxonomic categories, would be the actual
21 information that is collected. The taxonomic
22 structure is just to make sure we don't leave any

1 significant component out of work; that we
2 systematically consider all components of work.

3 And you heard some discussion and debate of
4 how detailed that should be. What all should be
5 involved. How much work context, and I deal a lot
6 now with the changing nature of work and do jobs even
7 still exist, and things of that sort. So lots of
8 issues there.

9 But oftentimes, with a few exceptions,
10 information isn't -- no one tries to directly
11 operationalize a taxonomic descriptor. A taxonomic
12 descriptor could have multiple specific indicants
13 that would all be sort of housed under that general
14 taxonomic descriptor category.

15 So how do we get to the point that we are
16 now identifying taxonomies and trying to move forward
17 in helping understand this problem? We looked at
18 scientific literature, went out and tried to identify
19 any attempt at development and validation of
20 empirical work taxonomies; and there are some of
21 those, which you will see in a second. And what we
22 mean by this is legitimate attempts to design

1 taxonomic structures of work descriptors that are
2 meant to take into account all work as we know it.
3 Then they actually collected some data on this, and
4 examined the extent to which the taxonomy worked.

5 I think David in his presentation from what
6 I gleaned is going to talk about factor analytic
7 issues. Things about -- that same process goes on
8 here in terms of testing these taxonomies, things of
9 that sort. Maybe we can spend some time talking
10 about those issues later on as well.

11 We also, you know, did the various database
12 and web searches. You have to kind of know what you
13 are doing. If you use the right keywords and Google
14 around a little bit, you can find interesting
15 information with regard to work taxonomies, and
16 people's views on these particular issues.

17 And then, of course, the other thing we're
18 soliciting information from the people on this Panel;
19 and any others as we present our candidates now. If
20 someone is aware of an important empirically derived
21 work taxonomy out there that we have overlooked, we
22 want to hear that. If you have a favorite that you

1 think we ought to consider, we want to hear that too.

2 Part of the methodology here is to -- at
3 this point anyway, don't leave any stones unturned,
4 you know. We ought to take this opportunity to look
5 at all the candidates. As you will see in a minute,
6 do a comparison process.

7 And we also ought to listen to the various
8 users out there, get their viewpoints on what they
9 need, what they don't need, and what will be
10 particularly useful for them. Now, they tend not to
11 think so much at the taxonomic level. They're sort
12 of down at the descriptor level, because that's the
13 level where they have to operate.

14 I can speak academic and operational level,
15 so that's my part of my job is to help; but -- so
16 this list is always tentative. It's going to be --
17 this process is going to be iterative as we
18 generate -- for some of you, you are really thinking
19 about what dessert is going to be today; and whether
20 or not it is going to be another salad. Am I going
21 to go to deli tonight or the ball game? But at some
22 point I'm going to show you something concrete, and

1 you are going to say whoa, that is not what I had in
2 mind.

3 So the point being here is that I am fully
4 aware that this is an iterative process. As we do
5 stuff in work analysis, people who are interested in
6 the physical descriptors, the cognitive descriptors
7 are going to say, whoa, you are off base. I really
8 like that. And over time, as we look at the various
9 constituencies and show them stuff, are we going to
10 make everybody happy? No. But are we going to get
11 closer to something that is feasible and moves us
12 further down the field in terms of solving people's
13 problems, I am confident that we will.

14 So here is some of the taxonomies that have
15 been identified for further analysis. I just --
16 there is always -- we will work on -- some panel
17 members have asked to see the specific questionnaires
18 that are behind all of these taxonomies, and we're
19 going to do our best to find all these. Some of this
20 work was done a while ago; but I think in almost all
21 cases we can identify these.

22 The other interesting thing in some cases

1 about some of the generic work analysis
2 questionnaires is particularly true with some of the
3 newer ones is that they're proprietary, there is
4 someone out -- the only way you make money as a
5 psychologist -- I will tell you, I like this work. I
6 like being on the user side. And I'm happy with what
7 I'm doing. But the way you make a lot of money is by
8 developing instruments and selling them. You don't
9 make it doing work analysis.

10 So some of these are proprietary. So we
11 may get some issues there, but as an academic, they
12 will usually, at least -- I think for the purposes
13 that we're dealing with, I can probably talk them out
14 of their instrument. If -- if they're concerned
15 about proprietary issues, I think we can work out
16 MDAs to make sure we don't disclose anything that
17 they think is proprietary.

18 So what these have in common on this page
19 is these are all attempts at fairly comprehensive --
20 these are in no particular order, but all attempts at
21 sort of generalized work activity analysis, all have
22 been criticized, all have various strengths. These

1 all have, in my opinion, enough scientific and
2 technical reports behind them to be worth of
3 consideration. Worthy of at least being evaluated.

4 Here are the rest of them. One of the
5 criticisms of some of the ones -- at least some of
6 those on the previous pages is that they tended to
7 focus too much on physical work. One of the things
8 that I decided to do was make sure that we tapped
9 into some of the instruments that were focused at not
10 necessarily all work, but trying to precisely get at
11 one or more of the components that some of the more
12 generalized instruments have been criticized for not
13 including.

14 So a managerial professional work has been
15 one criticism. There is some debate as to how useful
16 that might be, you know. How many professionals do
17 you see who are neurologists or executives of Fortune
18 500 companies. We do now have testimony that they do
19 exist, they are in the system. So information on
20 that might be useful. So included those in there.

21 There has been a lot of discussion in
22 the -- the Panel and from various presenters on this

1 realm that has various names that oftentimes refer to
2 as cognitive task analysis, or what are the cognitive
3 demands on work and things of that sort. So we
4 identified an instrument that seems to be the one
5 that has the most research data, the most development
6 effort in terms of that realm.

7 And the idea here is I -- I will say this
8 right up front. I don't imagine that the outcome of
9 our effort is going to be we pick taxonomy number
10 three. That's where we're going. I don't think
11 that's where we're going to go. I see this as sort
12 of source data for us. What we are going to do in
13 the first step is something like you see here, in
14 that it is just an attempt to sort of -- in an
15 informed, expert opinion look at the various
16 dimensions that the sort of taxonomic back bone or
17 structure that all these systems come up with, and
18 sort of do a cross walk, which dimensions exist
19 between each system? How frequently they occur.

20 And so down the right-hand side here, we're
21 going to be grouping what we consider to be the same
22 or highly similar taxonomic descriptors from

1 different systems. So you can see in the first row
2 there that -- and again, I simplified this. We,
3 obviously, do this for all the taxonomies that we
4 were discussing; but dimension one, dimension six,
5 and dimension three from three different instruments
6 our subcommittee identified as all being the same
7 dimension.

8 So it occurred a lot. It seems to be
9 something that turns up a lot. You know, obviously,
10 that's something we're going to want to make sure in
11 some way or another we operationalize, and so on and
12 so forth as we go. Is this going to be -- we will
13 follow some procedures to be as precise as we can.
14 But let's be honest, there is a certain amount of
15 informed judgment and inference here. But I'm not
16 too worried with the panel members that I have that
17 we won't come to some consensus pretty quickly about
18 what the dimensions are, and how they overlap, and
19 where they don't overlap. And I think that will be
20 an interesting exercise.

21 DR. SCHRETLEN: Mark, I have a question
22 here. So reading this, does the implication is that

1 what GWI identifies as dimension six might be
2 physical exertion? OAI also includes the taxonomy?

3 DR. WILSON: Yes. All GWI means is
4 whatever dimension six is from the generalized work
5 activity, we have concluded is the same as dimension
6 three from the OAP, and is dimension one from the
7 OAI, which are -- that's exactly.

8 All right. So that gives us some idea
9 of -- this is what we have. This is the current
10 scientific literature. We want to make sure we don't
11 leave out any dimensions. We want to anticipate
12 future cognitive demands, and so -- we don't know
13 what we will come up with here, but we are very
14 interested in identifying -- and we think that this
15 is a good way to go.

16 The next thing is once we reach some
17 consensus on that is -- and have these groupings is
18 to sort of stress test them in terms of what's their
19 sensitivity across the kinds of people requirements?
20 How likely is a particular work taxonomy dimension
21 going to be relevant to various person requirements
22 that -- and needs and want list that we have talked

1 about?

2 So this is particularly tentative, but --
3 and you know, we will wait for guidance from the
4 cognitive and physical subcommittees for more here;
5 but the idea is, we want to make sure that whatever
6 work taxonomy we come up with is sensitive to the
7 person -- what do you call them -- skills or tasks or
8 whatever. That it -- that it accurately taps into
9 and covers the domains so that physical, cognitive,
10 and emotional behavioral and interpersonal components
11 of the work would be operationalize.

12 So even though this particular matrix and
13 this one looks very similar, they're really doing
14 very similar things -- very different things, but the
15 idea -- this is sort of our attempt to making sure
16 that whatever we come up with has high utility. That
17 it, in fact, solves the problem that's been laid
18 before us.

19 Now, again, certain amount of abstract
20 judgment here. At this point we won't have the
21 specific items that might make up any of these
22 dimensions, so -- and that's where we're going to

1 rely on expert judgment, and others. But we want to
2 make sure that at least at this point that taxonomic
3 level, that -- certainly anything that we
4 consistently agree is very important for identifying
5 some physical or cognitive or emotional behavior,
6 interactional component, interpersonal component
7 isn't left out.

8 All right. In terms of evaluation
9 criteria. We tried to sort of model the process I
10 laid out there in terms of specifying in advance what
11 the criteria are. So when I had my chance in front
12 of the National Academy in a few years, I can hold up
13 my list and say, here is my evaluation criteria. We
14 put them in from day one. Here is the results of
15 that evaluation. When we went back out to the user
16 and said, not is this perfect, but is this better
17 than what you had before? Those kinds of issues.

18 Again, this is just a tentative list.
19 We're going to rely on you to react and say, whoa,
20 number two is way off base, you know what I mean; and
21 should be split in two or whatever. Jim and Shanan,
22 and I -- I think I was holding them up from going to

1 lunch then too. I left this to the last discussion.
2 So right towards the end this was at least a
3 tentative set of criteria that we established as
4 things that we thought would be very important.

5 As you can see there, does the dimension
6 have obvious physical, cognitive, emotional,
7 behavioral, or interpersonal relationship to world of
8 work? So we don't want to leave any of those out.
9 It's clearly highly relevant to the task at hand. If
10 not that first criteria, is it a dimension that is
11 relevant to determining transferability of skills.
12 Something that even if for whatever reason we can't
13 tag it on to the first one, is it something that an
14 end user says, no, I really need that. Or to really
15 determine are skills transferable here, I need this.

16 In fact, it may be -- a lot of times
17 taxonomies will have the infamous other category,
18 stuff that we can't figure out where to put it in the
19 taxonomy, but for one reason or another some users, I
20 need to know this and it does fit. So I think that's
21 a good example of the other category. Something
22 that's absolutely essential, but it may not

1 necessarily fit neatly into the taxonomy; and I
2 suspect that will happen.

3 Another one, obviously, is if something --
4 I admire and know a lot of these people who have
5 worked on these taxonomies. This is difficult work.
6 It takes a lot of time. It is not particularly
7 glamorous work. So I admire them. And if the
8 dimension across their work shows up multiple times,
9 you know, that to me is persuasive evidence that at
10 least in terms of the current thinking, this is
11 probably not something we should ignore.

12 Then following the attorneys and I -- my
13 slides were turned in a long time ago. So I didn't
14 get to edit any of these things. I spent a lot of
15 time making sure that whatever my clients get in the
16 event that they get challenged and go into some sort
17 of discovery process, guys like this attorney back
18 here go oh, man, I don't want to mess with him. He
19 has got this job nailed. There isn't any wiggle room
20 here. So that's a concern of mine. You know, is
21 this analysis legally defensible? Where are going to
22 be the holes and the cracks? What are the

1 attorneys -- how are they going to attack the system?
2 We all -- let's not be naive. We know that's going
3 to happen with whatever kind of analytical system
4 that we use, it's going to be challenged. We need to
5 think of it in those terms.

6 Then these last couple came up in one way
7 or another today too. Is the dimension sensitive to
8 jobs SSA currently sees frequently? And there is a
9 lot of information on that; and obviously, that's the
10 place where we should start. You know, let's -- and
11 again, I think the iterative aspect of this is we may
12 have a preliminary questionnaire of some type that we
13 go out and analyze a -- relatively diverse for Social
14 Security, but we may, after data collection, decide
15 that we can get by with less. But personally, I
16 really like this idea of let's go round up the usual
17 suspects and analyze the heck out of them. And then
18 figure out what we need to keep, and how we need to
19 refine that. What maybe we don't need. I think
20 that's a good development model to use.

21 Then the other one that is a little more
22 tricky is well, changing nature of work. How is work

1 evolving? What's going on inside organizations?
2 Extensive use of computerization. Computer assisted
3 work. They're all kinds of unique new technologies
4 that are coming that are just amazing.

5 How do we anticipate that? You know. On
6 current projections I figure, you know, the next
7 people that get to do this same kind of task, you
8 know, we're probably looking at another 20 or 30
9 years before someone comes back to ever design a
10 system like this again. Much like we can look back
11 on the DOT now, and say, you know, boy, what were
12 they thinking. I wish they would have done this.
13 Why did they scale that that way?

14 You know, we're standing on their
15 shoulders. We have their efforts as a starting
16 place, and I think mostly what we can hope for is
17 that we make the job a little easier, a little more
18 of a refinement and polish issue than what we have in
19 front of us.

20 So where are we now? What have we done?
21 As I said, I take the job of being the chair of this
22 committee seriously, especially from the standpoint

1 of both leaving no stone unturned in terms of
2 existing taxonomies, also in terms of listening to
3 the various voices out there. That's why I went to
4 the National Academy of Sciences review of O*Net. I
5 wanted to hear what the concerns were, what the users
6 were saying about that system.

7 There, I met somebody from OPM, Office of
8 Personnel Management; and they seemed very interested
9 in what we're doing. And I need to speak with Sylvia
10 and some of the Social Security staff. It may be
11 worth -- you know, they're the -- if you remember
12 that integrated personnel system slide, they're the
13 human resources department of the federal government,
14 so they, obviously, have an interest in work analysis
15 and work taxonomies. It may be worth going, spending
16 some days with them.

17 I'm very excited to get out and spend some
18 time with the users at the DDSs, and the judges, and
19 now, I think, the vocational experts. I think that's
20 absolutely essential, at least for me. And I'm aware
21 of some of the confidentiality issues and the
22 disruption in terms of the production and operations

1 process. I am used to that being an issue. I think
2 we will try and minimize it.

3 But, again, I don't think I can, at some
4 future point, say we did everything possible to
5 design the system in the way that it should be
6 designed if I haven't done that activity. It is
7 going to be a little disruptive, but I think in the
8 end a little disruption now will pay off later.

9 So we have identified a tentative analysis
10 method to look at these taxonomies. We have
11 identified a series of taxonomy as candidates. We
12 wait your advice as to more taxonomies, perhaps,
13 different methods and also maybe additional criteria.
14 I really do seek your input and value your advice. I
15 know we are almost out of time, so I will just defer
16 to the chair as to what to do now.

17 DR. BARROS-BAILEY: Thank you, Mark. We're
18 going to have an opportunity to deliberate more on
19 all the presentations we have had, and the papers we
20 have written; but we're over time on lunch. So I
21 think maybe we should go ahead and break now, and
22 come back from lunch at 1:15.

1 Before the Panel leaves, we're trying to
2 get a count for the subcommittee tonight over dinner.
3 So anybody else wants to attend the Physical Demands
4 Subcommittee if you would let Debra and I know so
5 that we can get a count for dinner, that would be
6 great. That's for the Panel.

7 So back at 1:15. Thank you. Same room
8 that we were in for lunch yesterday.

9 (Whereupon, a lunch recess was taken.)

10 DR. BARROS-BAILEY: At this point we have
11 the great pleasure of having the presenters from the
12 last day and a half before us to be able to ask
13 questions. We have a new member of that panel that I
14 want to introduce, Judge Waitsman, who is with us
15 just today. And he has been an Administrative Law
16 Judge with the Social Security Administration for
17 over 15 years. He has been assigned to the offices
18 of Shreveport, Louisiana, downtown Atlanta north.

19 Do you want to say a few things before we
20 go ahead and get started with the panel?

21 JUDGE WAITSMAN: Just a few. Thank you.

22 I am here sort of as a substitute for Judge

1 Oetter who spoke to you yesterday. He has got
2 hearings today. I sat through yesterday's session
3 and today. I just want to touch on a couple of
4 points.

5 The development VE testimony today, in my
6 opinion, was right on. It is what we see as judges.
7 They are just invaluable to us. We are constantly
8 making credibility decisions, evaluating things.
9 There are so many conflicts in the evidence, even
10 things that you would think would be basic about
11 education, work and jobs. We're developing the
12 evidence at the hearing level. And so the -- so what
13 the vocational expert was prepared for many, many,
14 many times is totally different when the testimony
15 comes out, and the person describes their job.

16 We don't see the pristine case very often
17 where they have listed their job. They are given the
18 form, and a lot of times the form where -- they won't
19 put what they did. They will put the employer; they
20 will put Walmart. You have no idea whether they were
21 driving an 18 wheeler, they were in management, IT,
22 performance, a clerk, a greeter. So the VE is just a

1 critical important part for role that we do.

2 I don't know what your end product is, but
3 I hope it is one that gives a good database like the
4 DOT for the VE to use. We're multitasking as the
5 judge at the hearing. So if it goes further you are
6 somehow thinking you are going to eliminate the VE,
7 and the judge can be operating the computer, getting
8 evidence up on the flat screen, thumbing through 500
9 pages in electronic format, asking questions of the
10 witnesses, listening to what they say, taking notes,
11 doing the follow-up questions, which are really the
12 more critical ones in following; and then at the same
13 time we're going to be working on the database to try
14 to classify their past job and do a transferable
15 skills analysis, find other jobs. That's just, I
16 think, unrealistic as to what one person can do, and
17 do it 500 times a year. So that was my major point.

18 And if you are going to take any short-term
19 initiatives, some of things that we see where the --
20 I think in the course of developing this, when do
21 vocational experts testify either in an enhanced or
22 manner contrary to the Dictionary of Occupational

1 Titles. So multiple times the sit, stand option is
2 not in the Dictionary of Occupational Titles, but
3 it's something that comes up in case after case.

4 The -- some of the jobs that were -- I have
5 the old classifications, but now the computer has
6 been introduced into the work place. Those kind of
7 things that need to be revised, because it is no
8 longer -- like a mechanic. You could have the shade
9 tree mechanic, everything is so intertwined with
10 computers, and even the service manager they need to
11 type into the computer what the problems with the car
12 are. So it's very difficult if you don't have some
13 ability to operate a computer to do so many jobs,
14 even though the DOT may have done the classification
15 before computers were readily available.

16 Then I think the question of literacy in
17 English is something that the DOT is not strong on.
18 We're talking about those GED categories, and what
19 was a one and a two, and how much fluency in English
20 is needed. Now, we will have the vocational experts
21 testify that there are many jobs that you don't have
22 to be fluent in English. Yet, there are jobs in the

1 workplace. So that is an area that, I think, needs
2 to be further updated.

3 And then where we have some conflicts among
4 the vocational experts, depending on who the expert
5 is, or maybe sometimes it is the areas of the
6 country, is about what employer tolerances are. How
7 many absences can you have in a month that the
8 employer will tolerate? If that's a recurring each
9 and every month. Some draw the line at two. Some
10 say three. Some will go to four.

11 Then what about breaks. Some jobs it is
12 very regimented. You take a break when it's
13 scheduled, and no other breaks. Somebody is watching
14 that very closely. Whereas others, more the office
15 jobs, you take your breaks and just get your work
16 done kind of thing. So those were some of the
17 highlights that I think were important to focus on.
18 Thank you.

19 DR. BARROS-BAILEY: Thank you. And just to
20 explain the format a little bit, this gives us an
21 opportunity of not only the OIDAP panel members to
22 ask questions of the user panel, but also members of

1 the user panel to ask questions of each other in
2 terms of anything you have heard along the continuum
3 that you wanted to get clarity from each other. So I
4 will just open it up and see -- okay, Tom.

5 MR. JOHNS: Mary, I wanted to, I guess, do
6 the OQP or the policy rebuttal to some issues that
7 were discussed today. Not so much a rebuttal, but
8 the only reason I'm interested in bringing this up is
9 because it really does bear on the important task for
10 this workgroup.

11 The idea is -- what it goes back when we
12 were talking about the assessment of the MRFC,
13 checkbook versus the narrative. Now, these are the
14 instructions from the POMS. I'm well aware that POMS
15 are not binding on ODAR or ALJ level, but since the
16 vast majority of the MRFCs are completed at the DDS
17 level by DDS physicians, and these are the
18 instructions to the physicians as to how to complete
19 this form; if you use the form in a different manner
20 than it was intended, when it's completed you can get
21 a different -- you know, you can get a different
22 outcome.

1 What I want to clearly say is that section
2 one, which is the check box. Section one is merely a
3 worksheet, and does not constitute the RFC. Then
4 down here for section three, which is where the
5 narrative is, this is the functional capacity
6 assessment. It is in this section that the actual
7 mental RFC is recorded.

8 Now, as I said the only reason I bring this
9 up is -- like I said yesterday, when we have the MRFC
10 for Suzy Que, the narrative -- the checkbooks aren't
11 meaningful, except as a worksheet to see if all those
12 areas are addressed, it's the narrative. The only
13 reason I bring that up is because with the physical
14 RFC, that is tied directly back to the DOT. You can
15 clearly see that.

16 The weight ranges are from the DOT. The
17 standing and walking, those seven factors are
18 directly from the DOT. The rest of the factors,
19 postural, environmental are directly out of the
20 scope. So without the narrative you don't have a
21 complete physical RFC, but at least you know where
22 those checkbooks are coming from, because they're

1 rated in DOT.

2 The whole purpose of during an RFC
3 assessment or an MRFC assessment is to determine
4 whether a claimant can they their past work or to do
5 other work in the national economy. If we weren't
6 doing steps four and five, we wouldn't even have an
7 RFC -- an RFC would never be completed, because we're
8 only using that form to decide if they can work.

9 The problem is and why the narrative rules
10 at the MRFC is because the DOT doesn't rate -- we
11 don't have a mental scope. So I can't go to the
12 mental scope out of the DOT and say, here -- these 20
13 functions are rated, so I will rate them here, and I
14 can tell exactly whether they can do a truck driver
15 job with these ratings, because the DOT says a truck
16 driver has to do these things or can't do these
17 thing. So because we don't have that mental scope,
18 we have had to do kind of a faster work Band-Aid
19 approach to assessing mental MRFC. So the check
20 blocks we cannot -- if you are just given the check
21 blocks in a case, you cannot assess the claimant's
22 ability to work mentally. You have to have the

1 narrative.

2 The narrative tells you what their function
3 is or is not. And so if you use the check box
4 without the narrative, it really -- that is not how
5 that form was designed, or how that form was intended
6 to be complete. It is a rating of severity. I mean,
7 that is clear. You are saying moderate or whatever.
8 The very fact reason we don't define, or why the
9 program is not defined as a term to say "moderate" is
10 because we don't want -- it doesn't matter if I say
11 if you are moderate, you are moderate, or I am
12 moderate. What does that mean?

13 What I need to know is what are the
14 functions that you can do, or I can do, or you can
15 do? That's why the narrative rules. Because it does
16 spell out -- or at least suppose to spell out here is
17 what the claimant can do mentally, until such case as
18 the workgroup here comes up with a mental scope.

19 That's why I bring it up, because that
20 really is something that is going to be vital -- it
21 is not a skull, of course; but I mean, something so
22 that we can look at a job description and tell not

1 only the physical demands but the mental demands, so
2 that we can tie that somehow back to an assessment
3 tool that the DDS can complete. So I will shut up
4 now.

5 JUDGE GOLDBERG: Can I just ask a question
6 on that. Given the confusion that those checked off
7 boxes are causing, has there been any consideration
8 to eliminating them?

9 MR. JOHNS: Yes, indeed. Now, I am not in
10 policy any more. Now, I understand that the -- you
11 know what, I am not even sure what they were. It's
12 the listings -- the division in the Office of
13 Disability Programs is in charge of the medical
14 listings, has been working for probably two years now
15 on eliminating the PRTF, or essentially combining the
16 PRTF and the MRFC form. I'm not sure where they are.
17 I know they were in the process of writing a Reg that
18 would change the way that mental is assessed; and it
19 would -- those blocks wouldn't be there, the last
20 version that I saw, which is probably a year old. It
21 is much more functional related, and the form guides
22 you into the demands that put function in.

1 So it's not relying on the block. There
2 aren't blocks. You complete sections in each of
3 these four areas. You delineate function and give
4 examples from the case record, and from that you
5 develop what the MRFC is. But again, I don't -- you
6 know, policy moves slowly at times. And short-term
7 in SSA policy can be 10, 15, 20 years.

8 To answer your question, yes, they are
9 working on revising the two forms into one form; and
10 hopefully, a form that is more readily usable for
11 everyone in the process.

12 JUDGE GOLDBERG: I do think that would be
13 an excellent idea.

14 DR. BARROS-BAILEY: Okay. Go ahead, Art.

15 MR. KAUFMAN: I want to just follow-up a
16 little bit or something I said earlier, and I said I
17 would bring it back up afterwards.

18 The issue of quality of vocational experts,
19 and medical experts as well, and consultative
20 examiners is a major issue to the people that I am
21 represent. I will give you an example as to what
22 happened; and it's already out of the Appeals Council

1 and in federal court.

2 I had a client that had Hepatitis C, and
3 taking Interferon, which gave him flu like symptoms
4 the day -- the afternoon of the shot, the next three
5 to four days; then, he began to feel a little bit
6 better. Then by the following Monday when he was
7 getting his shot again, he was kind of okay. The flu
8 like symptoms included nausea, vomiting, aches, pain
9 headaches, et cetera, et cetera.

10 We went to the hearing. It was well
11 developed. His doctor said that these are common
12 symptoms from Interferon. As a matter of fact, they
13 had to take him off the Interferon because of the
14 problems that he was experiencing. So side effects
15 from medications.

16 The Administrative Law Judge asked the
17 vocational expert at the hearing what -- given these
18 limitations of fatigue and difficulties in
19 concentration the individual could do. And the
20 vocational expert -- and it was the first time I had
21 ever -- hopefully the last time I ever have this
22 person in a hearing -- said, well, he could be a

1 sorter. That was one of the jobs, he could be a
2 sorter.

3 Well, how many sorters out there in the
4 local and regional economy that jobs that this person
5 could do? The answer is 1700 in New Hampshire, and
6 220,000 throughout the nation.

7 Now, I said a sorter. And he gave me the
8 DOT. It was 521.687-086. I had my handy, dandy
9 computer with me, and I start looking it up. It was
10 a nut sorter. I thought, well, okay that's all
11 right. Probably sorts different size nuts as far as
12 nuts and bolts and washers and things like that.
13 It's an unskilled job, that's for sure.

14 I start reading the definition, and the
15 definition is, removes defective nuts and foreign
16 matter from bulk nuts; turn nuts on a conveyor belt,
17 picks off broken, shriveled or wormy nuts and foreign
18 matter, such as leaves and rocks.

19 This is the job that the vocational expert
20 cited. This gentleman has nausea, vomiting and
21 Hepatitis C; and yet the vocational expert just said
22 that this individual can perform this job. There

1 were 1700 nut sorters in New Hampshire -- maybe not
2 in New Hampshire, maybe in New England. I can
3 guarantee you, you will find lobster sorters there,
4 you are not going to find nut sorters there.

5 The issue that I want to get to is that,
6 ultimately, we need quality. We need quality
7 individuals who are performing honest assessments at
8 all levels. A medical expert sitting at a hearing.
9 A vocational expert sitting at a hearing. If -- one
10 of things we have talked about, the vocational expert
11 needs more time to do an accurate assessment on a
12 more skilled -- because the job is more skilled, and
13 it's not one of those 30 to 50 jobs that we're
14 talking about.

15 I think it would be reasonable to say we
16 will have a supplemental hearing, and let that
17 vocational expert go home and go to their office and
18 do the work that truly has to be done, and make it
19 relatively defensible. Maybe not to a Daubert
20 standard, but make it defensible enough so that in
21 the end I can count on the fact that a nut sorter is
22 not a nut sorter, but it's truly an unskilled

1 sedentary job that can being completed by people with
2 specific limitations. So that's what I wanted to
3 say. Quality is an issue here.

4 DR. BARROS-BAILEY: Go ahead, Lynne.

5 MS. TRACY: If I could just say one thing
6 to clarify that a little bit. We get back to these
7 numbers and the aggregate issue. What happens in a
8 hypothetical like that we're asked to give examples;
9 and so in defense of this VE -- and trust me, I agree
10 with you. Somebody with Hepatitis C, I am not going
11 to put them in the food industry. What may have
12 happened is it is like small parts assembler, as
13 Scott was talking about; or a nut sorter falls under
14 sorting -- sorting and there is another --

15 JUDGE WAITSMAN: Grading.

16 MS. TRACY: Grading, exactly. Thank you,
17 Your Honor. He knows his DOT. And so because the
18 numbers are aggregated under those larger clusters of
19 sorting and grading, we may give -- we may be looking
20 in that occupational classification, because that's
21 where our numbers are going to be. We know that
22 there is a lot of unskilled jobs in that area. Then,

1 we're unfortunately just how the system works, we're
2 asked for a sample DOT codes.

3 And we through out those sample DOT
4 codes -- not one that I used by the way, but this VE
5 may use that as a sample of that bigger OES
6 classification. It just may have been not the best
7 DOT choice; but again, we don't have numbers for
8 DOTs, and yet, the judicial officers are expected in
9 part of their decision making to reference whether --
10 to determine whether the numbers are significant in
11 the local and national economy, and they need the
12 examples of the DOT codes.

13 So you know, I don't necessarily disagree,
14 but I just wanted that clarification of why sometimes
15 it doesn't make sense, or it may not in the local
16 economy, that particular job, because we can look at
17 national as well.

18 MR. KAUFMAN: Just to clarify, I understand
19 exactly where this VE was coming from. I know the
20 census code he was using -- where he established that
21 number; but the issue is I asked him to read the
22 definition into the record. Even after reading the

1 definition in, he still said this is a fine job and
2 the numbers are accurate.

3 To me, it comes down to quality. And
4 again, I think, as I said earlier, you get what you
5 pay for. If we want quality individuals, quality
6 vocational experts, quality experts, we need to make
7 sure that they're qualified, and that quality does
8 exist. It will eventually save the system money, I'm
9 certain, and time.

10 DR. BARROS-BAILEY: Questions from the
11 panel. Go ahead.

12 JUDGE WAITSMAN: One issue that I think you
13 should be aware of, this is an overriding issue. If
14 you hear testimony descriptions from various people
15 that comes from different parts of the country, they
16 may be telling you exactly how it is in their
17 locality. Even though it's a national program, the
18 assumption is it's the same everywhere, it's truly
19 not.

20 So sort of an age old problem that Congress
21 has asked various commissioners to answer, and they
22 have never been able to identify it, but why is there

1 such a disparity in the approval rates among the
2 states? They publish those reports, I think, on a
3 monthly basis.

4 Generally, the New England states approval
5 rating at the DDS level is maybe 60, 65 percent;
6 whereas Tennessee and Texas are near the bottom with
7 less than 30 percent approved. And if you thought it
8 would be education is an adverse factor, well, in the
9 south, education is lower. So you would think it
10 would be a higher pay rate in the south. So that's
11 no answer for that.

12 But as I hear the testimony yesterday and
13 today, I think that the states are very independent;
14 even though the federal government reimburses
15 100 percent of the states's salaries, it is my
16 understanding they don't set the job qualifications
17 or the pay rate. So they get different vocational
18 consultants, experts, people. And I think rarely, if
19 ever -- what would be classified as vocational
20 expert? It is somebody who is smart and they got
21 promoted into the job, but I don't think that
22 generally their educational backgrounds or sustained

1 experience is anybody who has got a degree, or has
2 done job analysis or things like that. It's a very
3 smart person, but without that background.

4 So whatever tool you are coming up with, I
5 think it would help to identify who is actually going
6 to use it and what would be the good qualification
7 for that person to have. Your answer may be
8 different as to what -- depends which comes first.
9 As -- where -- at the hearing level you have got a
10 vocational expert. They're looking for more data and
11 more criteria. They have got the independent
12 judgment, and the experience of work, and can add a
13 lot to the puzzle; but if you got someone who has
14 really not had the training, but has got a book,
15 then, maybe the contents of that book is going to be
16 different, or you may say, well, we need someone that
17 is -- truly has real word experience and the
18 qualifications.

19 MR. OWEN: I just want to point out -- can
20 you hear me now?

21 I just want to point out -- I mean, I think
22 that Judge Waitsman just talked about vocational

1 experts and what level of education they might have
2 within the DDS. And we don't have vocational experts
3 generally in the DDS. We have vocational specialist
4 who have program training that have usually come up
5 through the ranks in the DDS, and have specialized
6 vocational training.

7 But in creating a new system for us to use,
8 I would hope that we don't create a system that
9 requires lots of specialized training, because, quite
10 frankly, the DDSs are thinking increased number of
11 initial claims. We are going to realize the highest
12 number of initial claims than we ever had previously,
13 which exceeds any number that was predicted for the
14 year. As baby boomers reach their disability prone
15 years, the DDS examiners are faced with higher case
16 loads than they generally have in the past.

17 And we need a tool that doesn't require,
18 you know, a couple of specialized individuals in the
19 DDS know how to use, but a tool that every DDS
20 examiner can used to reach a consistent decision in a
21 case; and hopefully, at the earliest time possible.
22 That we don't have to wait until the case gets to

1 ODAR and a vocational expert is actually called.
2 That we have a tool available where we can make smart
3 vocational decisions at the DDS by an examiner that
4 is trained to do their own program. That's really --
5 that's got to be focused.

6 The number of cases that are processed
7 through the DDS and fall out and never reach the ALJ
8 level. Those cases need to have just as good a
9 chance of having the best decision possible with the
10 tool that's updated and easy to use as a claimant who
11 gets a claim representative and actually gets to the
12 ALJ.

13 MR. JOHNS: I would just add to that, that
14 I agree. The other half of that is, though,
15 vocational experts, though they have expertise in the
16 real world, they are not trained on SSA policy. So
17 for example, with the transferability of skills, I
18 have trained the nation -- I have trained the
19 vocational specialist across the country for the
20 last -- I'm not doing that now -- but for seven
21 years.

22 For example, one of the things that we

1 cannot use are temperaments and aptitudes. We --
2 that is policy says we are -- our decision on
3 transferability of skills has to be based on
4 impairment. And it has to be based on the skills
5 that the person got in learning -- in actually
6 performing a job, which is correct. But we do not
7 use aptitudes. We do not use temperaments.

8 Now, I know VEs use aptitudes and
9 temperaments, and I'm not arguing the merits one way
10 or the other in the system. I'm just saying, policy
11 instruction is that we do not use that. That's how
12 vocational specialists are trained to disregard that
13 aspect of it; whereas, the VEs use that.

14 So somewhere there is a middle ground as
15 well between the experts who actually do job
16 placement and do job analysis that's invaluable. I
17 would never argue against. On the other hand, you
18 have vocational specialists who don't have that
19 training or ability, but do have extensive training
20 in SSA policy and guidelines. Somewhere there needs
21 to be as well a mixing of the two, cross pollination,
22 whatever you would say, so that, you know, the

1 benefits of both are the same. I certainly agree
2 with John that whatever tools are created has to be
3 usable at all levels without having to have special
4 expertise to interpret or use it.

5 MR. STIPE: When I am talking about
6 aptitudes, I think we're talking about two different
7 things here. When I read from the revised handbook
8 of analyzing jobs as far as aptitudes, aptitudes are
9 the specific abilities required of an individual to
10 perform a given work activity. I can't ignore that
11 language. So when I'm evaluating past relevant
12 work -- it's impossible for any of us to ignore the
13 concept of aptitudes. Because from that past work
14 experience it's implicit what that individual has
15 demonstrated in terms of aptitudes.

16 So from that perspective, it's not a
17 possibility or a vocational expert to not consider
18 aptitudes from a transferable skills perspective. In
19 terms of temperaments, that's a debateable issue.
20 Again, in my discussion, I indicated that since the
21 Department of Labor has never really given vocational
22 experts a means by which we can adequately identify

1 and evaluate these kinds of nonexertional
2 impairments, the only thing tool that the government
3 has ever given us is this concept of temperaments.
4 And we know that the government says that
5 temperaments speak to our ability to obtain and
6 retain employment.

7 So therefore, we go to that list, because
8 they talk about similar things; directing,
9 controlling the activities of others, influencing
10 people, dealing with people. The same kinds of
11 things that come at us in a hypothetical.

12 DR. BARROS-BAILEY: I had a question.
13 Chuck had mentioned in his list of things that he
14 tries to advocate, educational records. So my
15 question is in terms of these transcripts,
16 standardized examination, basic skills, anything
17 within those educational records, once that's in the
18 record how is it treated by people at different
19 levels in term of the educational record?

20 MR. MARTIN: Might be good to use this mike
21 anyway, since the judges have a more firsthand view
22 of this.

1 But my experience is that one of the -- one
2 of the best uses of the educational -- of the school
3 record is to confirm a later impression that is
4 quantified in psychological evaluation, so that the
5 judges can see that this is not something that was
6 cooked up out of old cloth just to support a
7 disability claim, which didn't exist. You know, this
8 person just happens to have a lawyer who is clever
9 enough to get this document generated. In other
10 words, it is just to show, look, this isn't made up.
11 This person has had this problem their whole life.

12 The school records rarely are going to be
13 directly related to the capacity to do given jobs.
14 They're there to show whether an intellectual deficit
15 is a life-long deficit. Whether to show -- sometimes
16 they will demonstrate that a personality disorder is
17 a life-long deficit. Sometimes they will help
18 document a severe organic brain disorder. We may
19 have school records that show superlative performance
20 in high school; and they are testing with an IQ of
21 79, or 80, 81 now. And we have got a history of a
22 car accident where they were thrown through the

1 windshield of a car. They were unconscious for three
2 days. They're now alleging a brain injury, although,
3 the neurologist said totally cured, everything is
4 just fine and honky dory, and sent them home.

5 Those are the main ways we use the school
6 records is to sort of back up some other evidence.
7 Now, the judges may have a different take on it. But
8 the reason that I get them is -- I don't know -- I
9 don't know if it's just a southern thing, but I got
10 to tell you that a very, very high percentage of the
11 people who are unable to adapt to physical
12 challenges, and therefore, apply for disability are
13 people with very serious intellectual deficits.

14 Mild mental retardation is very widespread,
15 and a lot of the people that you see working in this
16 restaurant and other places are, in fact, mildly
17 mentally retarded; but because they don't have any
18 additional limitation, they're able to function, or
19 because they have very good supports. Maybe they had
20 a very enriched environment as they were growing up.

21 Until they get faced with some physical
22 challenge that they suddenly have to adapt to the

1 world, they have to relate to the world a whole
2 different way, they may function just fine despite
3 that.

4 And there are -- neither of these judges --
5 but there are judges who will look at that and say,
6 well, how can that possibly be? This person worked
7 for 20 years, and now they have got a little minor
8 back problem, and all of a sudden you are telling me
9 they -- what, did they catch mental retardation? You
10 know, didn't wash their hands enough? The school
11 records help get over that. So I hope that answers
12 the question.

13 MR. OWEN: May I, I'm sorry.

14 JUDGE WAITSMAN: You go ahead.

15 MR. OWEN: I was just going to step in and
16 say on the DDS level, the school records for a young
17 adult are sometimes readily available during the
18 school year. Not always as available during the
19 summer. School is closed; access is not that great.
20 Once a student has been out of school for a couple of
21 years, sometimes those records are not available to
22 us.

1 So a lot of times what we have for school
2 records, especially if an adult, say, is past 22
3 years of age, is their self report. When it comes to
4 anything above high school, you know, there may be
5 some rare instances where we say a claimant has
6 transferable skills based on education; but in my
7 real life experience within the DDS, it's very rare
8 that we ever make that conclusion.

9 We really -- when we look at the grids, we
10 very rarely have ever based transferable skills on a
11 college education. And at the unskilled level when
12 you get past transferable skills. So with
13 transferable skills, we don't really pay much
14 attention to education as we do to actual work
15 experience.

16 Then when you get to unskilled level on the
17 grid, high school or more is all the same. So for
18 that type our level of education we really don't give
19 it anymore consideration in the real world of
20 processing cases than having a high school diploma.
21 Then, the rest of the education we use based on the
22 grade that they report.

1 There is a slight difference as if, you
2 know, the claimant alleges a certain level of
3 education; and then, it, obviously, appear to
4 function at a different level than their education
5 might imply. Then you might write an argument or
6 rationale that they don't -- even though they say
7 have a high school education, it's clear that from
8 the forms that they filled out and gave us to every
9 report in every job that they have ever held, that,
10 perhaps, maybe they got a pass in high school and
11 they were pushed through.

12 Just because somebody has a high school
13 education that they have the individual educational
14 development of someone you expect to have a 12th
15 grade education. We consider it, and we make some
16 alterations. Usually reducing their education based
17 on their adaptive function, and their level of
18 function throughout, you know, longitudinal period of
19 their life.

20 That's basically -- really school records
21 are not always available, especially as on someone
22 that's older.

1 JUDGE WAITSMAN: I would just add that I
2 think in my view it's usually a critical piece of
3 evidence. You can have a lot of cases where the
4 issue is whether they were mildly mentally retarded
5 or limited intellectual functioning; and we have a
6 listing of -- that comes into play. We look at
7 adaptive functioning, and what was their baseline,
8 and things like that.

9 So you may get a current psychological
10 evaluation and testing, which would have a low IQ.
11 The big puzzle is, is it life long? How hard were
12 they trying? Is it affected by depression or some
13 other entity process that's going on?

14 You get the school records. And usually,
15 the older individuals getting the school records will
16 get a transcript and see what they really mean when
17 they filled in that application. A lot of people
18 apply for disability somehow think they're really
19 applying for a job. They make themselves sound --
20 seem the best. So it is a credibility issue as to
21 what exactly is going on. If you got the school
22 record, you know whether they were really in

1 special ed. You know whether they were just passed
2 along, but they failed every year.

3 We see these records quite a bit that
4 somebody is just pushed along in the system; and it's
5 easy thing to say at the hearing, but to accept it, I
6 like to see those school records. And a lot of times
7 it will explain a lot of seemingly inconsistencies in
8 the record.

9 We also look at their past work, and
10 sometimes you don't need a high IQ to do very skilled
11 work. A couple of jobs that come to mind is a
12 concrete finisher, a dry wall finisher, off shore oil
13 well workers. Those are some of occupations that a
14 lot of times they will be tested at a young age, you
15 through the school system. You see a current testing
16 and IQ is very low, but when you see the earnings up
17 to \$70,000, you see that something doesn't work
18 right. With enough experience and you get those
19 school records, it all comes one complete picture.

20 MR. KAUFMAN: I would like to add -- I'm
21 sorry.

22 MR. WOODS: Go ahead.

1 MR. KAUFMAN: Go ahead. Serious.

2 MS. TRACY: I will say it. Thank you. I
3 just -- John made me think of something, and I
4 realize it's policy, but him saying that you don't
5 often consider like recent education. One thing to
6 think about, though, is vocational -- you know, to
7 some degree if it's recent skills that may have been
8 developed from education is an issue that comes up at
9 hearings a lot of times. The judges will not
10 consider it, even if someone has just completed an
11 educational program.

12 As an old voc counselor, we have for years
13 put people through very specified vocational training
14 programs that are set to teach them skills that
15 directly place them into semi-skilled and skilled
16 work. So for example, medical assistant. They go to
17 school for six months. They learn at school the
18 hands-on tasks, the skills to do that job. They come
19 out, and we place them into those jobs, hopefully.

20 So it is an area to be aware about, because
21 it is frustrating sometimes for me in a hearing,
22 because, truthfully, the person has just completed

1 something that I feel has given them skills, and
2 frequently I'm not allowed to use that or consider
3 that as a potential option for employment. It
4 depends on the judge; but just as an aside, that is a
5 way of gaining skills.

6 MR. STIPE: I would add to that, it really
7 speaks to the whole issue of SOP, because sometimes
8 we're trapped in the logical illogic of these
9 definitions, because we are experienced with a
10 school, which is different, let's say, than a two
11 year community college. They have condensed the
12 program to prepare a medical assistant or to prepare
13 a building inspector in six months time, instead of
14 taking all the fluff that we all had to take in our
15 college degrees, they go right to the meat of the
16 matter and provide that requirement to become a
17 medical assistant.

18 Here we see medical assistant SVP 6, one to
19 two years of training. If I talk about that fact of
20 a person who has completed that medical assistant
21 program, I know that Art is going to hit me with SVP.
22 Well, she hasn't had two years of training. Yet, I

1 know from experience in placing those people that
2 that school has a good track record, and they're able
3 to employ people. They're telling me they have got a
4 80 percent, 90 percent placement record.

5 It is another one of those gray areas where
6 if we can get away, or somehow deal with SVP a little
7 bit better than we do now -- in other words, does
8 that have to be a -- an academic type of community
9 college program that last two years? Or if it is a
10 condensed focused program, could there be a variable
11 to SVP that would satisfy that? I don't know how to
12 do that, but it's a problem.

13 JUDGE GOLDBERG: I just wanted to bring up
14 the fact that the medical vocational guidelines do
15 have a concept called direct entry into skilled work.
16 You can get that from education. Skills, however, on
17 transferability, however, has to come from relevant
18 job experience. We don't have transferable skills
19 from education. We do have constant direct entry
20 into skilled work. If you can show that the claimant
21 underwent some type of training program, such as
22 nurse training within a recent time period, then, you

1 can use the grid rules that talks about directly
2 entering into skilled work.

3 Actual transferability of skills has to
4 come from just jobs. It can't come from education.
5 The Regulations are clear on that.

6 DR. BARROS-BAILEY: Art.

7 MR. KAUFMAN: I further want to encourage
8 DDSs to get those records as early as they can when
9 they can. I am stuck with a case right now where a
10 person applied for Social Security in '91, got
11 denied, didn't bother doing anything for the next
12 seven or eight years. His wife supported him while
13 his arthritis -- really acute arthritis became
14 extremely severe. He then applied for SSI around
15 2002, because he had no money nor anything else.

16 But now his date lasted short is over. And
17 we can't use any of the current information. And we
18 couldn't reopen the prior application. They wouldn't
19 allow us to, because the time had gone too far. It
20 expired. In this instance the gentleman lived in
21 Florida as a kid, had severe dyslexia, was pushed
22 through high school, never graduated, and cannot

1 read. When he was denied in '91, he didn't know what
2 he was denied for, had no clue.

3 I am now trying to find some documentation
4 about his schooling and the problems from back in the
5 late '50's. And it would have been a lot easier 20
6 years ago, than it is today. So you know, school
7 records can be a benefit. It can help throughout the
8 system.

9 DR. BARROS-BAILEY: Jim, did you have a
10 question?

11 MR. WOODS: The question is -- come back to
12 an issue that came up a few times this morning and at
13 the beginning of this panel session, and that was the
14 concern with the availability of numbers, employment
15 estimates. I want to take advantage of the panel
16 being here, because I have very little talk of the
17 panel other than a smattering of background in
18 national and state statistics.

19 So I would like to just take a couple of
20 minutes to note a couple of things nationally that
21 are done; why they're done that way, and solicit any
22 reactions back from you all that might guide us in

1 the future in terms of how we may need to work with
2 other agencies, like the Bureau of Labor Statistics.

3 First, the issue that occupational
4 estimates and projections and wage information are
5 produced by the Bureau of Labor Statistics, and state
6 employment security agencies under contract the
7 Bureau of Labor Statistics for approximately 820
8 occupations at the Standard Occupational
9 Classification level. That is unlikely to change in
10 any dramatic way in terms of the numbers. There are
11 reasons for that.

12 I want to suggest some things actually
13 based on a couple things that Art said this morning
14 that, perhaps, could be perceived. The program -- I
15 don't want to quote the figure. I think I know what
16 the figure is. I can check in the budget. It is a
17 significant budget annually. This budget is
18 developed every two years, for 400 areas in the
19 country for all states over the nation.

20 The collection -- I'm going to -- might as
21 well dwarf anything that Social Security will have in
22 the way of a budget to collect information. They're

1 statistical reasons why there is some limitations.
2 That doesn't mean that these are necessarily the
3 right 820 categories or couldn't conceivably be 1100.
4 I want to come to that point.

5 I just want to say that's a significant
6 limitation that I offer a personal opinion; but I
7 would be willing to bet my background, which is not
8 very big, that Social Security is not going to
9 change. Social Security is not going to develop a
10 system that develops employment estimates. Many
11 different reasons for that.

12 So what are the alternatives? One --
13 again, just throwing these out to see if there is a
14 reaction -- there is a method for working with the
15 Bureau of Labor Statistics on revising the Standard
16 Occupational Classification system. Like an
17 economist, you work at the margin. They change this
18 every five years. It's a marginal kind of change.
19 The next version is coming out in 2010. There
20 probably aren't more than 20 changes in there, and
21 they're very minor.

22 But one possibility might be -- and this

1 goes back to something said this morning -- that if
2 it is a result of the Social Security study, for
3 example, you know, just hypothetically saying, if you
4 can identify 40 or 50, or whether it's a hundred, or
5 whatever the number is, that these are so compelling
6 that they're 90 percent of the Social Security cases.
7 There might be at least a strong case or argument
8 that could be made in working with the Bureau of
9 Labor Statistics to see if at least some of these
10 could be considered as separate Standard Occupational
11 Classification system.

12 Because we projected -- I'm not suggesting
13 that that can't happen, but there is a method for
14 doing that. It would be strong justification when
15 one considers the billions of dollars that go out
16 through the Social Security system. So that's one
17 thing, is looking at an existing system, a large
18 scale projections estimating system in the country
19 that can probably only change at the margin and pure
20 justification; and Social Security may have that kind
21 of justification.

22 No, it is not going to get at 12,000 DOTs,

1 or 23,000 occupations that David Thomsen has in his
2 proprietary ERI system, but there is a method for
3 doing that.

4 Secondly -- and this harkens back to -- I
5 believe it was Scott this morning -- is looking at
6 synthetic methods. And the work -- and again, I only
7 note tangentially the work that Jeff Futran and
8 SkillTRAN is doing; but basically, what they are
9 doing is taking the old DOT, and taking DOT industry
10 codes, which are their own creature; and they are
11 linking those to the North American Investigator
12 Classification System.

13 What that allows, then, is going back to
14 those projections that I just talked about in the
15 Bureau of Labor Statistics. The way that system is
16 designed, the 820 occupations all can be looked at
17 within an industry. They can also be looked at
18 across industries. That's what allows this
19 capability to take an aggregate number, let's say,
20 for cashiers; and maybe find out that there is a
21 certain kind of cashier in the gambling industry that
22 has a SVP of 6. There are 24 DOT cashiers; only one

1 of them has an SVP of 6. Happens to be in the
2 gambling industry, happens to be something different.

3 A very synthetic method that -- will that
4 hold up from a statistical standpoint? No,
5 absolutely not. But it may, in fact, through
6 practice over time not only hold up, it may be a very
7 reasonable method both for the claimant and for
8 Social Security. And I'm just going back, if that
9 becomes a practice. Because we will never get down
10 to that level. So it's a synthetic method that might
11 be there.

12 The third thing, until we get to any of
13 those points, it seems to me -- and I guess this is
14 rather naive -- that the example that Art gave, and
15 then, Lynne, that you discussed, that at least
16 when -- and perhaps, the judges do this -- when
17 evidence is presented, and we saw that in the
18 OccuBrowse, and Shirleen presented that yesterday.
19 She did a very good job of making it clear that when
20 we looked at a single Dictionary of Occupational
21 Title number for employment -- Shirleen made it very
22 clear in about five seconds that that related to a

1 broader occupational employment category, which seem
2 to me, at a minimum in a presentation, that that has
3 to be made so that there is no misunderstanding.
4 Again, that's coming, perhaps, from a naive
5 standpoint.

6 But I did want to suggest that I think
7 longer term that thinking about working with the
8 Bureau of Labor Statistics with the notion that a
9 compelling case could be made for some substantive
10 occupations could be a long term way to go. That's
11 what I recommend. I am stopping at that. See if any
12 of that gets into some of your thinking or different
13 approaches.

14 MR. STIPE: I would say, yes, but I think
15 that the pendulum swings both ways. I would hate to
16 see emphasis be placed, you know, primarily on these
17 40, 50, 60 typical sedentary and light unskilled
18 occupations, to get wonderful data on those
19 occupations without also focusing almost as much
20 energy on the 50, 60, 100 typical pre-injury
21 occupations that we're fundamentally faced with.
22 Because there is problems with that data to.

1 I was talking at lunch time with some
2 people. I probably interviewed 500 carpenters in my
3 life time, and when I tell them -- or painters --
4 when I tell them that the DOT evaluates their work as
5 a medium occupation, requiring no more than 50 pounds
6 of lifting, they laugh. I have never once evaluated
7 any painter or carpenter who told me that, because a
8 bucket of paint weighs 65 pounds. A sheet of plywood
9 weighs more than that. When the DOT was last
10 evaluated, there were these things called helpers
11 that don't really exist in the present economy. And
12 so we have this combining of data.

13 So I think we would like to have -- because
14 we get into vast debates with ALJs sometimes about
15 that, well, the government defines the job as medium,
16 so that must be the way the work is performed in the
17 national economy. Maybe in 1977 it was that way. It
18 is not that way now. So we find ourselves
19 increasingly departing from the DOT, both on the
20 front end and the back end when we provide testimony.

21 MS. TRACY: May I.

22 DR. BARROS-BAILEY: Hold on. Mark, did you

1 have a question?

2 DR. WILSON: Well, I just want to make the
3 comment that I think this -- and it's why I asked at
4 our last sub-panel meeting for Jim to make a
5 presentation, about exactly what this government data
6 is, and how these estimates are generated; but the
7 aggregation issue for me is extremely important. And
8 what the Department of Labor developed this system
9 for and how they use it for sort of economic analysis
10 of labor conditions, and it's very different than the
11 kind of work analysis that we're talking about.

12 So I'm somewhat heartened by what Jim said.
13 Maybe there is some flexibility in what some of the
14 SOC categories are, and we could reduce some of this
15 sort of within SOC title variation, which several
16 people said is substantial. But I think we have to
17 ask ourselves how do we get to the position that
18 we're in where we have these highly aggregate
19 categories; and I don't know. But my guess is that,
20 as have been discussed, this is an involved process;
21 it's inexpensive. I don't know -- it's not
22 inexpensive. And part of the reason I'm sure that we

1 went from the old DOT with 12,000 some occupations
2 down -- what's the magic number now? Is it 800 or
3 what's the --

4 MS. KARMAN: 812.

5 DR. WILSON: 812, you know what I mean. I
6 don't know what it is. I'm pretty sure it is not
7 812. I think that there is substantial within
8 category variation when you aggregate to that level.
9 For economic analysis and stuff I don't know about,
10 maybe that's useful; but for us it's not.

11 The interesting thing for me is to get them
12 to do that, and keep them doing that over a long
13 enough time period, I think that would be great. You
14 know, one issue that I would have is that whatever
15 system you decide on would be one that is
16 maintainable, and to some extent that you sort of
17 control.

18 That doesn't mean I think you have to do
19 everything. There would have to be some sort of very
20 clear agreement with other government agencies that
21 we are providing you with this information. Because
22 I can just imagine over time oh, the budget crisis,

1 you got these nerdy job analysts going around, and
2 they're looking at 1400 different occupations, you
3 know, and that's the whole thing. We didn't get here
4 by accident, that we're down to this level of
5 aggregation. Sorry, I didn't mean to give a speech.

6 DR. BARROS-BAILEY: Okay. Lynne, did you
7 have something to add?

8 MS. TRACY: Yeah. I like Jim's idea. I
9 wanted to respond to those. I think it's a
10 potentially viable idea, but what -- the synthetic
11 method, which is an interesting term, I like that.
12 What I want to point out is that by using people in
13 industry we become a great resource for SSA, as well
14 as for other systems for relatively cheap in some
15 ways, because these are companies that are doing
16 business. And then you also have us vocational
17 experts, all of the IARP members and some of the
18 others who are great data collectors, because we're
19 basically in some ways already trained, and a lot of
20 job analysis information can be gathered. We can
21 start gathering it.

22 It was one of the ideas floated a number of

1 years ago that, you know -- that as we do our work we
2 just automatically collect it; because it serves us
3 as well as it serves you. That we collect it. We
4 put it in, and it gets -- and over time we build
5 databases. So I just want to encourage the ideas
6 that industry is used. Those resources are used. We
7 are used.

8 And the other point I want to make is even
9 though the systems and their disclaimers, and O*Net,
10 and DOT is not used for forensic work. It is only
11 use for career exploration, the forms that the DDS,
12 you know, the Administration puts out are used, may
13 not be intended to be used in a certain way. And
14 what you do here, just so you know, it won't be
15 limited to Social Security. That we as vocational
16 experts across the Board and others will be using
17 this information.

18 We will -- you know, the defensibility, and
19 the statistically valid popping into my head that
20 this is going to end up -- we're going to be using
21 this information in court for like long term
22 disability cases, PI cases. It's going to be used

1 all over the place. And so you know, it only adds
2 more pressure to you. I know that that's not what
3 Social Security's intent is in having this
4 information; but in the real world it will start
5 crossing out into other areas, and will be, in
6 reality, utilized.

7 MR. STIPE: Which is really okay from an
8 economic standpoint, because what happens in the
9 worker's comp system in my state is there is a
10 tremendous energy to get clients to cash out their
11 vocational benefits. So the insurers will offer "X"
12 amount of money to supersede vocational assistance.
13 So where do you think those people go? Straight here
14 to get that benefit.

15 LTD is that way. The funding for state VR
16 is always in difficult straits. So the systems that
17 we use in these other venues have direct economic
18 impact to Social Security.

19 MS. TRACY: It is all interrelated.

20 DR. BARROS-BAILEY: Chuck.

21 MR. MARTIN: While we're talking about
22 data, I want to sort of put it in a context. I mean,

1 I have sort of been the whipping boy from time to
2 time as that lawyer, but we do operate in a society
3 governed by laws, and those laws exist to serve us
4 all. In the context of data, there are certain legal
5 standards that any data that the government relies on
6 are going to have to meet. And I just found a
7 relatively succinct quote that I would like to read
8 out of the decision of the Seventh Circuit Court of
9 Appeals, which I think sort of characterizes the
10 atmosphere that this whole process has to fit into.

11 The court said, "we recognize that the
12 standards by which an expert's reliability is
13 measured may be less stringent at an administrative
14 hearing than under the federal rules of evidence.
15 Nevertheless, because an ALJ's finding must be
16 supported by substantial evidence, an ALJ may depend
17 on expert testimony only if the testimony is
18 reliable."

19 Evidence is not substantial if vital
20 testimony has been conjured out of holed clothe. The
21 expert just can't make it up.

22 The court goes on to say, that parties to

1 an administrative proceeding must satisfy the ALJ
2 that their experts are qualified, and the vocational
3 expert is free to give a bottom line; but the data
4 and the reasoning underlying that bottom line must be
5 available on demand if the claimant challenges the
6 foundation of the vocational expert's opinion.

7 That's the legal context in which these
8 questions have to be answered. It doesn't -- it is
9 not the same standard that an expert witness
10 testifying in federal court would have to meet. But
11 it is a standard that -- of just general reliability.
12 There has to be some basis for it. It can't just be
13 made up.

14 And so while we don't necessarily have to
15 have data that would stand up to very high levels of
16 statistical validity, there has to be a direct
17 relationship between that data and the real world,
18 and a demonstrable relationship. And I think that
19 the idea of some kind of a synthetic analysis where
20 you use data from different sources and combine them
21 to come up with conclusions neither one was really
22 designed to reach, as long as there is a -- a

1 scientifically valid way of comparing the two where
2 some other expert can look at the numbers and come to
3 the -- essentially, the same conclusion, I think,
4 probably we would have something that the courts
5 would accept. But they're not going to accept it if,
6 oh, it is this proprietary program or, you know -- a
7 proprietary method is just not going to work. It's
8 got to be something that can be repeated and where
9 multiple experts will come to the same conclusion.

10 DR. BARROS-BAILEY: Deb, then Art.

11 MS. LECHNER: I think I would definitely
12 agree with comments about the validity -- the
13 validity of the data; and I think there are a couple
14 of things that cross my mind, particularly with the
15 comments -- back to the comments that Lynne made
16 earlier, that the original DOT was developed back in
17 the day when we did not have the same capabilities in
18 terms of managing data. And so, you know, we are in
19 an entirely different world now, which makes some
20 things that weren't possible back then more possible
21 now.

22 But I believe that there were some things

1 done -- that were done back in the day that the DOT
2 was developed that were sound in terms of
3 methodology. There was a methodology for collecting
4 the data. Maybe it wasn't perfect; but I think, you
5 know, stepping back and here is how we're going to
6 aggregate this data, but here are also some standards
7 for how to collect the data, and how the data will be
8 collected, regardless of who participates in the
9 collection, but we have the standards and the
10 criteria for that data collection the quality of data
11 will be good. So I think that's an issue.

12 But I think you also have to recognize the
13 level of subjectivity when you are relying
14 exclusively on a claimant report. I know that we are
15 not here to fix or change the disability
16 determination process; but I also know as someone who
17 has done -- who has collected a lot of self-report
18 data, and then gone out and analyzed those jobs and
19 those patient's functions, that they are often -- the
20 patient report is often not accurate. So I think
21 that's an issue that eventually the system will have
22 to deal with. Those are just comments about that.

1 The other thing that I would have some
2 comments and suggestions or thoughts, Mark, as you
3 went through your presentation about the -- our
4 taxonomy. And one of the questions or one of the
5 thoughts that kind of came to my mind on your slide
6 where you talked about the different degrees of
7 specificity ranging from occupation all the way down
8 to the elements. And I think this is kind of a
9 classic example of how, as we work through all of the
10 things that we are going to collect or not going to
11 collect or what level, that we will all have to be
12 working off of operational definitions that are
13 similar.

14 Because, for example, you mentioned that
15 there are hundreds of tasks per job. Then when you
16 look at what's in the DOT or when I do a job
17 analysis, I'm typically ending up with anywhere from
18 one to maybe at max 15 or 20 tasks per job. So I
19 think that we're going to have to come to some
20 operational definitions about what is a task;
21 because, you know, I can tell from your slides that
22 you probably are working off of a different

1 operational definition than I typically do when I do
2 job analysis. So I think we will have a certain
3 amount of work to do operationalizing the things that
4 we are collecting.

5 And then when we look at the different
6 taxonomy systems, and the extent to which they
7 evaluate physical, cognitive, emotional, behavioral,
8 et cetera, I think what we also need to include in
9 that evaluation is the old DOT classification system
10 so that we don't forget to analyze things like skills
11 or the presence of educational level or aptitude or
12 whatever it is that -- that the old DOT included.
13 Not that we have to include everything, but we have
14 to make a conscious decision not to include that, I
15 believe.

16 So those are just some of the thoughts that
17 crossed my mind as we have been discussing things.

18 DR. BARROS-BAILEY: Okay. Art.

19 MR. KAUFMAN: I want to go back to the
20 issue of the data collection reliability things that
21 Jim had brought up and started talking about. The
22 validity and reliability to me, and also Chuck -- the

1 validity and reliability to me are the things that
2 are most pressing in this process at all levels. A
3 good MRFC that is valid and reliable and can be
4 utilized throughout the system is going to be a very
5 valid piece of information and valuable for every
6 single individual that touches that claimant's life.

7 Because we will be able to get good,
8 quality reproducible materials from that; but I think
9 the issue has to be that it's got to be valid and
10 it's got to be reliable. It will be used -- Scott
11 said something earlier about the 800 pound gorilla in
12 that area of census code or whatever, Social Security
13 is also the 800 pound gorilla in the world of
14 vocational rehabilitation. And whatever comes out of
15 here, whatever MRFCs, RFCs, for projecting long term,
16 for projecting short term, all of those things when
17 it combines to the world of work will be looked at by
18 every insurance company, by every single individual
19 that does vocational rehabilitation.

20 So if nothing else, I implore you to make
21 these things as valid and reliability as you
22 possibility can. I understand that it's not

1 100 percent, but certainly the closer you can get,
2 the better off you will all be.

3 DR. BARROS-BAILEY: Okay. David, you had a
4 question?

5 DR. SCHRETLEN: I do. I wondered if anyone
6 wanted to reply to that?

7 DR. BARROS-BAILEY: Mark.

8 DR. WILSON: I couldn't agree more before I
9 forgot about it, something that Chuck says, and it
10 relates to some things that Debra was saying too in
11 terms of, which I forgot to mention in the
12 presentation was I would advocate that whatever we do
13 at every step of the way that it be very transparent,
14 very open. Proprietary system on the big capitalist,
15 and I like the private sector, and I think it plays
16 an extremely important -- what little load there is
17 left that the government is running.

18 But whatever kind of system that's used in
19 evidence -- if you say, well, Your Honor, the
20 algorithms for that are proprietary, and they
21 haven't been independently verified, that is just not
22 going to fly. So -- which kind of leads to what Art

1 was saying, is that you have to be able to make the
2 case. I think one of the best ways is by having open
3 databases sharing all this, letting other -- I know
4 it would be shocking to all of you to think this, but
5 there is some academics out there who don't
6 necessarily like me and might like to see whatever
7 system came that was developed that I had anything to
8 do with, they're going to want to try and find the
9 kinks in that system.

10 I think part of the beauty of being open
11 and shared is that people have different ideas about
12 what a task is, or different level, you know; they
13 can go back in and reanalyze the data.

14 But this issue of aggregation is very
15 important in the sense that you can always aggregate
16 if you have enough level of detail. If you can't
17 ever -- if you don't collect it to the begin with,
18 you cannot disaggregate information that is only
19 collected at an aggregate level. That leads directly
20 to these issues of reliability and validity, and
21 within category variabilities.

22 DR. BARROS-BAILEY: Go ahead, Jim.

1 MR. WOODS: I just want to go back as I
2 inadvertently, through my articulation, may have
3 caused some confusion. My reference back to
4 SkillTRAN was not the notion of using SkillTRAN.
5 Actually, quite the opposite. What SkillTRAN is
6 doing -- I give them all the credit in the world,
7 because they have gone out and done it -- they
8 actually are using publicly available information
9 to -- right down to a DOT level.

10 So in a sense, if Social Security were to
11 look at this, I would agree you do not want to have a
12 proprietary system driving that, nor do you want to
13 create problems for that system; but everything that
14 they are doing other than the decisions that they're
15 making on how they think the things relate is done
16 with public information. That's the information
17 that's available, because each DOT has an industry
18 code, and that industry code could be related to
19 another government code, which is what Mexico,
20 Canada, and the U.S. use for the North American
21 Classification System, which links directly to the
22 occupational employment and industry projections. So

1 it's public information that provides the mechanism
2 to do that.

3 So Social Security could do that. Somebody
4 else could do it. Just want to clarify, not pushing
5 any particular system.

6 DR. BARROS-BAILEY: Did you have a comment
7 on -- yes, Bob.

8 MR. FRASER: Yes. Just we spent a lot of
9 time with taxonomy, which is very important; but you
10 need to keep in mind as applied to whom. Sylvia has
11 kicked out for us the top 100 high frequency
12 occupations, albeit at the SOC level.

13 MS. KARMAN: For the nation, though; that's
14 not just for us.

15 MR. FRASER: Right. But the second part of
16 it is to look at kind of randomized sample of people
17 applying in terms of the jobs held at the time. And
18 then, also, their salient impairment, because that
19 also weights how we spend our time in our cognitive
20 behavioral group, and perhaps in the physical group,
21 et cetera. The more we can get that data, I think it
22 kind of can help us in this taxonomy review.

1 DR. BARROS-BAILEY: I think you are on.

2 DR. SCHRETLEN: Okay. Maybe just first I
3 want to second something that Mark said, as someone
4 who has collected data for lots of studies over the
5 years. It is always easier to aggregate finer grain
6 data later, but you can't disaggregate it. I really
7 want to second that.

8 That, we can move four levels of
9 aggregation, whether it is the level of, you know,
10 hundreds of task demands, job demands into dimensions
11 or very specific jobs into clusters; but it is useful
12 to collect the data in a more finer grain level
13 initially and aggregate it later.

14 So I have a question -- actually, I have a
15 question for Chuck. Then a follow-up question for
16 Scott and Lynne. The question for Chuck goes back to
17 your rely to Mary's question wen she asked about how
18 he use educational records. You made it very clear
19 that you use educational records insofar as they
20 provide information about a claimant and that
21 person's unique strengths and vulnerability. I
22 thought earlier when you were speaking I heard

1 something slightly different that was also very
2 interesting caught my attention.

3 I thought I heard you say -- maybe this
4 will be a quick question, because I just
5 misunderstood. You were suggesting that it might be
6 helpful to have something like a reading and
7 arithmetic test, not so much to evaluate a claimant
8 as the job demands, but using an instrument like that
9 to quantify demands posed by jobs. Did I hear you
10 correctly? And if so, could you amplify on that?

11 MR. MARTIN: You did, but there are
12 different sources of information I would use for the
13 two purposes; similar but different. The reason is
14 school records only show -- they only show academic
15 performance as a child. They don't show what has
16 happened since then. Many times people they learn
17 additional things. They forget things that they
18 lost -- they lose things that they learned. So their
19 actual ability to use their education in a job today
20 may be very different than what they left school
21 with. It may be greater, may be less.

22 And so typically, we would use a wide range

1 achievement test administered currently to
2 demonstrate that a person does or does not have the
3 capacity to perform -- to perform certain types of
4 jobs. So that's how we would use educational level
5 in order to sort of match them up with particular
6 jobs. The historical information, usually it's to
7 show some other thing.

8 DR. SCHRETLEN: That presumes we understand
9 what level of reading or arithmetic skills are
10 required by various jobs. That's what I was trying
11 to drive at. Are you suggesting that it would be
12 helpful to have some more quantitative information
13 about what job requirements are in the cognitive
14 domain?

15 MR. MARTIN: Yes. The question is a gift,
16 because it really shows how poorly I expressed my
17 intent, which was to say exactly that. That one of
18 the things that I think this Panel -- what I would
19 love to see this Panel conclude is that in evaluating
20 jobs we need to have a grade level achievement
21 required, you know. We need to have -- in order to
22 do a job as a secretary we need high school reading,

1 we need at least eighth grade math. And to classify
2 jobs based on the educational requirements to satisfy
3 the demands of that job.

4 Right now we have only the DOT's very
5 general GED requirements. I mean, some of those are
6 very useful; but there is a limitation on them,
7 because we don't have a statistically valid test we
8 can administer that will give us a result that is
9 comparable to the classifications in the DOT; but if
10 we had a grade level educational requirement for the
11 selection of jobs that are surveyed, then, we would
12 have the ability to administer a test and find out,
13 is this person going to be able to meet the entry
14 level requirements for this work.

15 DR. SCHRETLEN: Okay. So as a member of
16 the -- what is it, mental cognitive subgroup I have
17 been thinking primarily in terms of assessing
18 claimants; but you're introducing something slightly
19 different, and that is to look at more quantitative
20 information in the cognitive domains required by
21 different jobs. So this leads to my second sort of
22 follow-up question to Lynne and Scott.

1 And Lynne, you have said that in California
2 worker comp system there is sort of a hold over, and
3 that the sort of underlying presumption is that if a
4 person can focus for 45 to 60 minutes, I think you
5 said, or concentrate -- sustain some focus and
6 concentration for that period of time, that that's
7 usually sufficient to support employment. And you
8 said that Scott might see it as a person could work
9 even if they can only focus for an half hour.

10 Either way, the implication is that you
11 need empirical evidence from the work side of the
12 person work bridge about what exactly different jobs
13 require in terms of sustained attention, or
14 concentration, or reading, or arithmetic, or other
15 cognitive abilities. Am I hearing you correctly?

16 MS. TRACY: Yes and no. Your conclusions
17 are absolutely correct. What I was referring to with
18 45 minutes to an hour, California worker's comp, when
19 we used to be part of that process, was the physical
20 demands. If somebody could sustain posturally
21 sitting, standing, walking for those types of
22 periods, they were felt to probably be feasible from

1 that physical aspect.

2 You are correct that in us evaluating, jobs
3 need to be looked at more quantifiably in terms of
4 those cognitive factors, the psychosocial factors;
5 those things need to be better identified. The data
6 needs to be gathered. A way of how to gather the
7 data from the employers -- now, you know, in doing
8 job analyses over the years, there has been some of
9 that generally done with employers when I go out;
10 but, again, yes, your conclusion is correct of what
11 our needs are.

12 MR. STIPE: Speaking to your original
13 question, I think if we -- if we introduce testing
14 into the mix to provide some kind of verifiable
15 foundation for performance of work, we have to be
16 very careful, because a very typical scenario is
17 something like this where the individual that we're
18 faced with has a documented work history. Let's say,
19 it's skilled employment. Going back to the whole
20 aptitudes issue, going back to the general
21 educational development issue, we are told by the
22 U.S. Department of Labor that we are to assume these

1 baseline aptitude abilities. We are to assume these
2 baseline reasoning, math, and language abilities.

3 However, if we have, let's say, somebody
4 who has been in this skilled employment for 10 or 12
5 years. Well, a not uncommon process by attorneys is
6 to have the individual tested; and although, the
7 reasoning, math, and language capabilities, let's
8 say, are all at level three, the 7th to 8th grade
9 level, come to find the RAP that comes back is at the
10 second grade level.

11 Well, there is an obvious disconnect there.
12 This is an obvious inconsistency where, in my
13 experience, there are a phenomenal number of people
14 that have had documented successful work histories
15 where there is no evidence of any kind of sheltering
16 or special considerations, but somehow they have been
17 able to be a carpenter, somehow they have been able
18 to be a welder; and it's contrary to the GED findings
19 here; and will probably be contrary to, you know, any
20 kind of baseline there. What that tells me is that
21 there needs to be more investigation of -- of -- and
22 real caution put into what those instruments are, and

1 what we're really testing for.

2 DR. BARROS-BAILEY: We're at the
3 3:00 o'clock hour, and I have two hands raised,
4 Lynnae and John. Then, I think I am going to go
5 ahead and break so we go continue with the rest of
6 the agenda.

7 MS. RUTLEDGE: This is Lynnae Rutledge.
8 This is really more a comment than a question to any
9 one on the panel.

10 I would just encourage all of us to really
11 avoid trying to make this be all things to all
12 people. There is real reasons why people tend to
13 work in teams, and that a team of an adjudicator and
14 a vocational rehabilitation counselor could probably
15 answer the majority of the questions that we're
16 asking of a tool to do.

17 So as we move forward, I will usually be
18 the voice of reason that says I think what Social
19 Security is asking us to do is to identify a way to
20 develop a system that can work for the people that
21 are the claimants, but also for the folks that have
22 to administer it.

1 As I have heard this discussion and I think
2 about trying to find out from a perspective of a
3 particular occupation what the individual employers
4 are looking for, and realizing how huge that scope
5 is. So I will continue to be that voice of reason
6 and get us back. I hope this is comfortable, and I
7 think is actually going to be doable for us. So just
8 my two cents.

9 DR. BARROS-BAILEY: John.

10 MR. OWEN: Thank you. I'm probably going
11 to tag on to a little bit of what she just said. I
12 feel this panic setting in. As I think of the number
13 of claims that the DDS must process, and it's true
14 that you could create a tool that could be so
15 specific to say, you need to have this level of
16 aptitude in order to do the job. If you create that
17 tool, it gives you that information.

18 What you have to have in addition to that,
19 is you have to have information on the claimant on
20 what their aptitude is. Quite frankly, we don't have
21 the resources. Perhaps, as a claimant representative
22 or other resources outside the Agency you might have

1 that for your individual claimant. But the DDS in
2 Social Security, quite frankly, I don't think have
3 the resources to test every individual.

4 And even if you were going to test those
5 individuals, who would do the testing and how would
6 you determine whether the claimant's efforts in that
7 testing, knowing that they were taking the test in
8 order to be determined disabled -- I mean, it just
9 sound like quicksand to me.

10 What I would hope is what we're going to
11 have is a tool that leads to -- I mean, I don't want
12 to say simplification; but we don't want a tool
13 that's more complex to reach a decision than we have
14 today. And we want to be able to enable the DDS
15 adjudicator to reach the same decision, perhaps, that
16 the ALJ at ODAR would make with this tool with maybe
17 less vocational expert involvement at the back end of
18 the decision. Maybe involves in the front end or
19 something; but we want consistency, and we want
20 simplification where we in some way to make
21 consistent, reliable, quality decisions.

22 What I hear about this education makes me a

1 little nervous in the whole testing, because, I mean,
2 we're already struggling to meet the demands of the
3 increased workload, and creating anything more
4 complicated is not going to help us in our mission to
5 serve the general public like we need to. Thank you.

6 DR. BARROS-BAILEY: I really want to thank
7 the -- everybody that was involved in the case
8 simulation over the last day and a half. I think it
9 was very valuable for me. I could see all the heads
10 nodding for everybody here as well. I have a whole
11 stack of questions that we didn't get to. I
12 apologize we don't have more time. I thank you all
13 for your time.

14 We will go ahead and take a break. Come
15 back at 3:15. Then the Panel will deliberate until
16 4:00 o'clock. Then we will take public comment.

17 (Whereupon, a recess was taken.)

18 DR. BARROS-BAILEY: We're at the point in
19 the agenda where the Panel will have some time to
20 deliberate. So I think we have almost all the panel
21 members back. We will start in a couple minutes.

22 Okay. This is a time, I think, the second

1 day where we, as a Panel, get a chance to deliberate
2 over the activities for the last day and a half. So
3 I would maybe just open it up and see if anybody has
4 any thoughts or comments about what we have been
5 doing for the last day and a half in terms of how it
6 affects our mission and our process. Does anybody
7 want to start.

8 MS. RUTLEDGE: This is Lynnae. I guess I
9 would just like to go back to the comment that I made
10 just before we broke that I think it's really
11 important that we have the benefit of all the
12 presentations that we have been having, because I
13 think it really is helping us all get a much larger
14 picture; but at the same time I would really caution
15 us to get back to, what are the key things that
16 Social Security asked us to do? And then from the
17 perspective of adjudicators and the folks at the
18 appeals process, the vocational experts, what do they
19 see as critical got to haves in the new system? Not
20 just the pie in the sky wish list, if you could have
21 everything you could possibly have.

22 But if we could get it narrowed to what do

1 you really need to be able to do this effectively,
2 and from that try to build the system that we're
3 going to recommend. I think, for me, that would be a
4 lot more helpful. Because as I listen to everyone's
5 presentations and the farther out that we would go
6 afield, I kept seeing value; but I was trying to be
7 practical at the same time. Thank you.

8 MR. FRASER: Just emphasize, you know, the
9 needs of the back end user, the applicant. Because
10 if we can, again, have that profile of the jobs they
11 are in, and their impairment, it can really help us
12 kind of narrow the field.

13 The second thing, in terms of cognitive
14 abilities or aptitudes, and I'm diagnosing here; but
15 the Department of Labor, the old DOT did have
16 occupational aptitude pattern cut offs for every
17 occupation. I think maybe Jim can help me on this,
18 but they would have like, you know, you're an
19 estimator. Your "G" had to be in a three, you know,
20 visual spacial abilities had to be, you know, at a
21 two. You know, up to third of the population,
22 exclusive of the top ten percent, you know, et

1 cetera. So they did do that.

2 Jim, was it two to five workers that did
3 that for each occupation, something like that?

4 Okay. How well that held up, I don't know.
5 We did a study for folks with epilepsy in terms of
6 their placement, and tried to cross validate that
7 with the OAPs established, and these people working
8 irrespective of the cut offs that were established.
9 So I'm not sure how great they were, but in fact that
10 was done. In the original DOT people did do that.

11 DR. BARROS-BAILEY: I think something that
12 didn't come up that the old DOT had was the general
13 aptitude test battery. So there was a way to measure
14 that correlated back to the taxonomy, right?

15 MS. LECHNER: Yes, I was remembering that
16 as well that when the comment was made that there was
17 no validated test. I don't think that's not entirely
18 true. At the beginning, it did have the gap eight
19 test. So you know, you may want to note that. I
20 have no way to assess them. That's not really my
21 field, but I think we may want to take a look at what
22 they were at least.

1 DR. WILSON: Well, we -- I didn't want to
2 address that issue too much; but yes, why the gap
3 went away, and what the issue is there. What, if at
4 all, Social Security may want to touch that issue.
5 You think job analysis is tough, developing a
6 national testing system to evaluate people's
7 cognitive and personal abilities, and validate it, I
8 don't know that I would necessarily want --

9 MR. WOODS: Get into serious information
10 issue.

11 DR. WILSON: Yes.

12 Again, I just want to -- I agree with
13 Lynnae. And I hope I have made that clear. I think
14 we need to focus like a laser beam on the end users;
15 but to some extent the issue is they need our advice.
16 And they have been using the system. And in many
17 cases, I think it's hard for them to think outside of
18 the DOT averse, or whatever you want to call it.
19 That's all that they know, and all that they're
20 really aware of. And there is new thinking and new
21 technology and new approaches that they might not
22 even be aware of, if they had it.

1 So my only modification to this idea of --
2 we need to be very practical. We can't have a --
3 assuming there are still going to be Cadillacs,
4 which, you know, if we can't have that Cadillac
5 system, we got to stick with a Chevy; I very much
6 agree with that. But in terms of the development
7 mode, I would encourage that we cast a broad net that
8 we, yes, listen to them; but also listen to all these
9 experts that we have assembled here, and maybe try a
10 couple different strategies, the sort of research
11 mode and find out what works best and share that
12 information with others, and make some decisions
13 based on data, as opposed to just expert opinion.

14 DR. BARROS-BAILEY: Were there some ideas
15 that emerged out of today that would be beneficial to
16 the Panel, some of the subcommittees as we're
17 deliberating? I heard a lot of things about skill
18 and transferable skill, operational definitions.
19 Tom.

20 MR. HARDY: Well, it was mentioned to me
21 during the break that I have been awfully quite
22 today, which by implication means I talk too much

1 usually. I was hoping to get through the day without
2 talking at all. However, since you bring it up, we
3 are working now on a new subcommittee for
4 transferable skills as well to take kind of a general
5 look at that. And there has been discussion
6 regarding how that's going to fit into the work that
7 we're doing.

8 And I'm kind of leaving that open at this
9 point for us to do some exploration and to bring
10 everybody up to date. This is a new subcommittee
11 that we have just started. At this point kind of
12 much like Dr. Wilson is doing, we're looking at the
13 literature that's out there and trying to take a look
14 at all the bibliography and see what has been said
15 thus far. What has been looked at. What are the
16 different systems, and just sort of gathering
17 information at this point.

18 I think what we need to remember is that
19 the content model that we're creating will have to at
20 some point work through some sort of transferable
21 system; and that's kind of what we're prepping for.
22 So we're also in a bit of a holding pattern, waiting

1 for more information on the content model, both from
2 physical and the -- what are we calling that, mental
3 demands, physical? Cognitive?

4 DR. BARROS-BAILEY: Cognitive.

5 DR. SCHRETLEN: Mental cognitive.

6 MR. HARDY: Mental cognitive. Then we will
7 start picking up more on that. That's a bit of an
8 update on that. We are going to also, it looks like,
9 try to start meeting with some subject matter experts
10 regarding the idea of transferability, because
11 getting from the work side to the person side, that
12 step is going to become crucial at some point.
13 That's just an update for the Panel as a whole.

14 DR. BARROS-BAILEY: That's great. Was
15 there a comment, Bob?

16 MR. FRASER: Just, again, kind of on the
17 bottom line side of things. You know, what's the
18 budget for this? You know, because we need those
19 parameters, because that kind of dictates what kind
20 of taxonomy we're going to be doing. We are going to
21 be doing something more on the task inventory area,
22 as Mark has referenced. If the budget is "X;" if

1 it's a little more we might do "Y." That's a big
2 parameter in terms of anything we do. A lot of it is
3 academic if we don't know what that bottom line is.

4 MS. KARMAN: You know, I think it may be
5 helpful, at least for our recommendations, if we're
6 in a position to recommend what the Panel thinks is
7 necessary; and you know, we may even want to talk
8 about low, medium, and high options if it comes to
9 that. I mean, if there really are -- you know, if
10 that -- if our recommendations lend themselves that
11 way. I don't think we should be limited by -- by
12 anything. I don't think we should put ourselves into
13 that box.

14 I mean, I think if there is any box at all,
15 it is really operational reality in terms of what it
16 means to our adjudicators to be able to use the
17 system, the content model. So obviously, it can't be
18 a content model that's got 500, you know, elements in
19 it or something. But -- or that requires an enormous
20 amount of testing or something, you know. I mean,
21 that would just be operationally and feasible for us.

22 So I mean, in terms of that, I don't

1 think -- you know, we don't really -- anyway, that's
2 my suggestion, that we make the recommendations that
3 we think are appropriate, and where possible, if we
4 have options that we need to -- you know, to show,
5 well, if you go in this direction here are the
6 possible consequences, including whatever costs. Not
7 that we would want to cost stuff out, but that we
8 give that heads up that this could be -- whatever it
9 is could possibly be very onerous to do, or labor
10 intensive or time consuming, whatever, all those
11 caveats might be. And that, you know, if it lends
12 itself, we may end up in a situation where we may
13 want to provide, you know, the alternate options as
14 well.

15 One of the things, I guess we -- I hope I'm
16 not getting out in front of whatever we have
17 discussed, but one of the things I thought would be
18 helpful, and I have talked with the Panel Chair about
19 it; but that maybe -- and I think I have mentioned
20 this maybe one or two subcommittee meetings, I'm not
21 sure already which subcommittee meeting it was -- but
22 I'm thinking that it might be helpful if I took the

1 task on of developing at least an outline of what our
2 recommendation plans might ultimately look like for
3 you all to consider. You know, and that might get at
4 some of the questions, for example, that Bob raised
5 about well, it would be good if we had a budget; or
6 if we knew blah, blah, blah, whatever. Maybe I could
7 at least flush that out.

8 I will start that out, since I work for
9 Social Security, and I have a sense of what might be
10 asked. That doesn't mean that when I share that with
11 you all, that I would not want you guys to embellish
12 on -- you know, make changes to that or make
13 suggestions to that. It just might be to help us get
14 something concrete, a strawman to take a look at so.

15 DR. BARROS-BAILEY: Go ahead Jim, and then
16 Deb.

17 MR. WOODS: So throughout the Panel an idea
18 of -- whether we might look at some of the
19 aggregation issues and concerns in a little bit more
20 detail earlier rather than later, and by that play
21 off again with what some of the comments that the
22 panelists, and particularly, Art Kaufman from --

1 apparently, from the sunshine state of the U.S., New
2 Hampshire, but said is aggregation in terms of
3 national systems, like the Standard Occupational
4 Classification, or what I would consider a
5 taxonomical system like O*Net, with agreement, are
6 too aggregated in many cases for Social Security use.

7 But that I think there might be value in
8 beginning to look at the old 12,500 DOTs. And
9 whether we might not be able to slide a lot of those
10 off the table. And by that, let me just give you an
11 example. This is looking for the 800 pound gorillas
12 that Art talked about a couple of different ways.
13 The 800 pound gorillas that might be within a
14 Standard Occupational Classification, and then
15 ultimately through the Social Security study; but
16 prior to that may be based on information from some
17 of the VEs, you know, what are -- you know, first cut
18 at some typical occupations that could help us maybe
19 not be -- or maybe just myself -- be so overwhelmed
20 by this.

21 I am still troubled by the fact that the
22 12,500 comes up so many times, that I think we may be

1 keeping ourselves boxed in. Don't memorize these; I
2 am going to make this real quick. If you look at --
3 I ran a printout last night a little different from
4 what you guys ran out. I looked at the top -- at the
5 Standard Occupational Classification level. Looked
6 at the top 50 -- the occupations that make up
7 50 percent of the employment according to the Bureau
8 of Labor Statistics. That involves 54 standard
9 occupational classifications, which is approximately
10 10 percent of the 800 SOCs; and that involves
11 14 percent of the 12,500 DOTs.

12 What I got is a little printout that I ran
13 last night that shows a SOC, the number of DOTs that
14 have looked at employment. Real quickly, in the top
15 15 we have retail salespersons. Problematic, it has
16 47 DOTs; but I would suggest that probably with some
17 analysis, there ain't 47 specific DOTs as far as the
18 needs for disability determination. I may be
19 completely wrong; but I think that can be analyzed,
20 and that we might find a couple of 800 pound gorillas
21 in there.

22 But right up top, the top 15 retail

1 salespersons, cashiers with 18 DOTs. Office clerk,
2 that's problematic, 73; but you only have to look at
3 how different are they in terms of what ultimately
4 the Social Security's needs are. Undoubtedly, there
5 is going to be a need for more than one office clerk
6 category, I have no doubt. Let me stop with that.

7 I think there is potential in maybe doing a
8 little bit of analysis up front that might help us
9 focus on some of these areas. It all might be
10 revised down the road; but -- and again, I may be the
11 only person in the room; but I'm really struggling
12 with this, going back to -- and I realize why we're
13 going back to that. I don't think that's actually
14 the creature that we have been dealing with. We
15 haven't been dealing with 12,500 DOTs. Anyway, a
16 potential action item is that's something that maybe
17 we can take a look at and discuss at a later point.

18 DR. BARROS-BAILEY: Rob, Nancy, and then
19 Lynnae.

20 MR. FRASER: Maybe I'm the only person
21 concerned about this. I think if we cross walked
22 that with the sampling, which I think Sylvia has

1 already indicated is under way -- the sampling of
2 participant applications, DOT positions, you know,
3 the world would shrink; and we would have a better
4 handle on what we're doing here.

5 MS. SHOR: Mark, I just wanted to ask
6 you -- I think Jim's idea is really excellent in
7 bringing down the scope of the inquiry, and maybe to
8 discover at some point and time we have made it too
9 small and it would need to be expanded.

10 But following your really fascinating
11 presentation this morning, I'm wondering whether you
12 see some of the things that you were talking about.
13 Would they be negatively impacted if the decision
14 were made to at least start with not the 12,500,
15 which I think is raising everybody's blood pressure;
16 but instead to come down to a smaller -- a smaller
17 group? Would that create problems for you that you
18 don't see right now? Because that would not be
19 useful.

20 DR. WILSON: Well, I -- the short answer is
21 if we go out and do data collection, the number of
22 titles will be whatever it is. Do I think it's

1 12,000 some? Probably not. You know, I think
2 they're a lot of anything that you sat on the shelf
3 for 20 years is going to have outdated information.
4 If you look at the nature of our economy, and
5 especially what I have learned about the kinds of
6 work that Social Security traditionally deals with,
7 you know, I don't think it's going to be anywhere
8 near that number.

9 As I mentioned earlier, and the other
10 members have agreed, there is a couple issues around
11 aggregation that we have a worry about. One is this,
12 well, we don't want to get overly involved. We don't
13 want to get into too many types of data that we
14 collect. So that's one level of aggregation, what
15 information is collected from whoever we're
16 collecting it from.

17 Then, the second issue is whatever we call
18 a title, how ever many different occupations are put
19 into these larger groupings of what is within
20 category variation. And that would cause problems,
21 which I think you have heard here in terms of other
22 people, you know, that -- which I'm willing to guess

1 that in several of these cases there may be more
2 within classification variation than there is across
3 some. So that some categories might encompass, you
4 know, substantial amounts of variation that for our
5 purposes wouldn't work too well.

6 So the issue is as long as we get to do our
7 own sampling and go out and identify the work -- you
8 all know what work is coming in and what people are
9 reporting that they do. You all know what work that
10 you are recommending, you know, so that's the obvious
11 place to start. You know, tell me how many that is.
12 But then this bigger issue -- which I don't think
13 we're ever going to get from Bureau of Labor
14 Statistics anything like what we have to deal with at
15 Social Security everyday in terms of the presence of
16 what we're referring to as job titles or jobs.
17 That's just not the level at which they operate.
18 That's not the kind of data that they are --

19 Then the second question becomes, well, how
20 do we -- this all works. How do we expand out to
21 that? How do we sample that? Unless someone has any
22 other idea, I don't see how we can do anything else

1 but sort of use their framework to start sampling
2 that. Then at that point we will know how much
3 within category variation there are. We can go -- I
4 like to say mean things about economist anyway, you
5 know. We can probably use this data to, you know,
6 argue that maybe some of their categories need to be
7 revised.

8 DR. BARROS-BAILEY: You -- Nancy -- go
9 ahead.

10 MR. WOODS: Let me just follow-up. What I
11 mean to suggest is not ruling out any of these, but
12 really mimicking something that Sylvia has done
13 before in the presentation that she did in the
14 October session -- saw overheads that she did. Your
15 problem charts for graders and inspectors -- is that
16 they're relatively simple ways of depicting that
17 range, you know, kind of in a three dimensional by
18 using level charts. So that it might allow us -- not
19 necessarily saying we're going to rule these DOTs
20 out, but understand a little bit more about the
21 range. But also using a bubble chart look at the
22 size of how many DOTs, you know, have this SVP.

1 And it's a way of looking at that that
2 might help down the road in analysis. What I'm
3 concerned about is that we might go down the road and
4 not have some -- I think there is some information
5 that we could have available that could help us as we
6 do more detailed analysis down the road. I think
7 it's readily available because you actually do not
8 have to make any decisions on it right now. You just
9 have to prepare it in a way that is more easily
10 understandable.

11 DR. BARROS-BAILEY: Go ahead.

12 MS. KARMAN: I don't have to go next. I
13 just want to respond to that.

14 DR. BARROS-BAILEY: I just want to make
15 sure that Lynnae and Deb are not responding to the
16 same topic. Go ahead, Sylvia.

17 MS. KARMAN: Oh, okay. Thank you, guys.

18 I was just going to say that one of the
19 things I had talked with Mark about early on was that
20 in order for us to prepare for the recommendations
21 with regard to how to group the jobs, I asked whether
22 or not the taxonomy workgroup, you know, where you

1 guys were; and if you guys thought you might be ready
2 to also begin to take a look at these very issues;
3 and I think I talked with Mary about it recently.

4 Because taking a look at how we might group
5 those occupations under the top 50, top 100, whatever
6 it is, based on the kinds of factors that might be of
7 most important to us; because I know we can certainly
8 do -- like just as an example, the bubble charts to
9 show where things fall, you know, in terms of SVP,
10 strength level; but those are the current
11 circumstances. Those are the current items that we
12 look at. What we don't have right now is -- is, you
13 know, the nonexertional -- the mental proxy. What
14 would you use so that we can see how the groupings of
15 these occupations might be were we to consider there
16 was a mental and cognitive element to -- that plays
17 into that.

18 And one of the things that we have
19 discussed on our team has been the prospect of
20 selecting, perhaps, a few of the temperaments to take
21 a look at those and see do these possibly -- might
22 these be good stand-ins just for us to do an

1 algorithm to see would that -- you know, give us a
2 grouping that we could live with.

3 Anyway, I guess my point is, I don't want
4 to get out in front of what the taxonomy committee
5 might be wanting to consider; but I'm just offering
6 that as, you know -- some discussion that our team
7 has had back in headquarters and just some of the
8 discussion I have had with some of the other Panel
9 members about the topic. So anyway, I don't know if
10 that -- does that help you, Jim? Does that kind of
11 get at what you are talking about?

12 MR. WOODS: Um-hum.

13 MS. KARMAN: Okay. Thanks.

14 DR. BARROS-BAILEY: Thank you. Lynnae.

15 MS. RUTLEDGE: Just two comments. One is
16 that -- one thing I got prompted to think about as we
17 were listening to the presentations this morning was
18 about evaluation of whatever system we recommend and
19 is ultimately implemented. That we don't get
20 ourselves ten years, 15 years, 20 years, 25 years
21 down the road and say, oh, the system doesn't work.
22 Nobody has looked at it for the last 25 years. But

1 that we begin with the end in mind. That we be
2 thinking in terms of what is it that we want to
3 recommend, in terms of that evaluation of how well
4 after it's implemented it works, and then at what
5 point do people want to need to have it be updated,
6 upgraded, whatever.

7 The other is I remember from our first
8 meeting, Sylvia, we talked about a company that
9 Social Security had contracted with from Michigan
10 that was looking at information technology related
11 DOT like -- information like, to update the DOT for
12 the information technology professions, and that it
13 was due like in June or something.

14 MS. KARMAN: I don't know. I don't know
15 about the information technology professions. That's
16 not tracking with me.

17 MS. RUTLEDGE: Maybe I got it totally
18 wrong.

19 MS. KARMAN: No. What we are working on,
20 and we're not expecting a report until the end of
21 May, is we have asked a contractor to evaluate the
22 DOT based data of another company that is basically,

1 as part of its usual, ongoing business of providing
2 occupational software to people who do LTD work, you
3 know, private insurance, vocational experts, people
4 like that, they have been also gathering to some
5 extent or updating some DOT titles. And so we have
6 just engaged the help of a contractor to evaluate
7 this company's methods and the data to see whether or
8 not they would meet our needs in terms of how we use
9 the Dictionary of Occupational Titles currently in
10 our process, based on the fact that it is an existing
11 system.

12 In other words, it is not something where
13 we would go and then, you know, have this full blown
14 update to the Dictionary of Occupational Titles;
15 because as everybody knows, you know, there are
16 limits to the Dictionary of Occupational Titles. But
17 that might be a helpful thing for us to have in the
18 intermittent time while we're working on this other
19 stuff.

20 And so we're not getting anything until the
21 end of May, so I really don't know. And there may
22 be -- maybe what -- maybe what I have said in the

1 past is it -- for example, there may be jobs that
2 they may have collected DOT based data about that are
3 not currently in the Dictionary of Occupational
4 Titles. Maybe that's it.

5 MS. RUTLEDGE: Maybe that was just the leap
6 of logic that I made.

7 MS. KARMAN: Maybe I said that. I don't
8 know, but anyway.

9 MS. RUTLEDGE: I guess the point is, let's
10 take a look at what you get --

11 MS. KARMAN: Yes, absolutely.

12 MS. RUTLEDGE: -- and see if there is
13 anything we can learn from them.

14 MS. KARMAN: Yes.

15 MS. RUTLEDGE: Thank you.

16 DR. BARROS-BAILEY: Deb, did you have a
17 comment?

18 MS. LECHNER: I thought that the VE wish
19 list was particularly instructive today. I thought
20 they raised several issues that are not included in
21 the DOT today. Just the whole issue of the
22 flexibility of the work schedule, and having some

1 sort of measure or some sort of rating of the jobs
2 that we -- or the occupations that we analyze.
3 Because I think that -- at least on a practical
4 level, I see that makes a huge difference whether
5 folks with physical dysfunction can return to work.
6 So I thought some of their pieces that they had were
7 particularly instructive.

8 I also think that while I would agree that
9 we are not charged with developing instruments to
10 test claimants, that if we measure jobs in ways that
11 claimants can't be evaluated against --

12 MS. KARMAN: Oh, yes.

13 MS. LECHNER: -- then we have a big
14 problem. So I think we have to be mindful of that
15 whole issue of how -- how are applicants going to be
16 compared against these variables, particularly in the
17 cognitive and the mental -- the behavioral areas.
18 You know, I think those are the ones that get to be
19 the most challenging in that regard.

20 The other thing that strikes me is in terms
21 of the scope of what we're doing, I think we
22 definitely have to stay focused on what the Social

1 Security administrative needs and wants, but just
2 knowing how the current DOT is utilized not only in
3 the U.S. but throughout the world, other countries
4 defer to the DOT even when they have their own in
5 country classification system.

6 So I think we have to be cognizant that,
7 yes, our focus and our purpose is this, but the
8 utilization of what we do will be much broader.

9 DR. BARROS-BAILEY: Thank you.

10 DR. SCHRETLEN: Can I respond to that?

11 DR. BARROS-BAILEY: Very quickly. We're at
12 the 4:00 o'clock hour. We will have more time
13 tomorrow in the afternoon to deliberate.

14 Bob had a quick comment, then I am going
15 to --

16 MR. FRASER: Just real quick in terms of
17 mechanics. Is CESSI also doing the profiling of the
18 applicant DOTs or is that being done internally?

19 I thought in our last meeting there was
20 going to be kind of a randomized sampling of
21 applicant DOT numbers, so we kind of had a profile --

22 MS. KARMAN: I don't know. I guess you and

1 I should talk off line. I don't know who CESSI is.

2 MR. FRASER: Some external company that the
3 Agency was going to use to do a sampling of DOT
4 applications. I thought that was going to happen.

5 MS. KARMAN: We're doing a study of claims
6 to look at occupations that claimants had, is that
7 what you are talking about?

8 MR. FRASER: Yes.

9 MS. KARMAN: Yes.

10 DR. BARROS-BAILEY: Like I said, tomorrow
11 afternoon we're going to have a time to deliberate
12 more about this. We're at the 4:00 o'clock hour. We
13 have public comment coming on. We have a couple
14 people here and somebody else on the phone. I wanted
15 to kind of move over to them at this point. So as
16 we're preparing for the public comment, I would like
17 to review the guidelines for our commenters.

18 Each person will be allowed ten minutes for
19 their comment followed by Q and A from the Panel.
20 Today we have, again, three individuals giving public
21 comment. We will end each comment period exactly ten
22 minutes after the time we start.

1 I would like to welcome Dr. David Thomsen.
2 He is at the president at ERI and PAQ. Dr. Thomsen.

3 DR. THOMSEN: Thank you. I am going to
4 bring Linda Lampkin (phonetic) along -- can you hear
5 me?

6 My firm ERI surveys salaries. Because of
7 that, we collect job descriptions. We go out and
8 price jobs and job descriptions. A few years ago --
9 seven years ago, we decided to add the 120 mental
10 cognitive SCOs because we always had the DOT as our
11 construct; and I went around, visited some of you,
12 Jim; and went to Philadelphia, Mary; you came out to
13 see me. And we got going on this. And we took --
14 there was 99 questions in total.

15 We took -- we got a salary expert, people
16 would have to put in the salary they were earning,
17 the number of years, and then they would have to
18 answer three questions. And in 2004, we showed that.
19 There was an RFI. We got beat up. A convenient
20 sampling, people from the internet. But most of all,
21 you haven't been in business long enough, Dave.
22 Where are all your job analyses? Where have you been

1 collecting them?

2 Now, I had some good friends over the
3 years, and Bob Mecahm was one of them, and Dick
4 Jeanneret, and Ernest McCormick with PAQ. I was
5 sitting and talking to Connie, his wife, and Bobbie
6 Dyke (phonetic). She said, Dave, why don't you buy
7 PAQ from us? So I went back and I mortgaged the
8 house in 2004 and bought PAQ from Connie and from the
9 two McCormick children. And brought in a million job
10 analyses since 1974. I put them on the internet.
11 You can look at them. They are both in our product,
12 which we call proprietary; but they are also on the
13 web.

14 We starting adding the data that we -- we
15 already had that process going with our data. We
16 also came up with a product, proprietary occupational
17 assessor. And over the years we have -- UNUM has 70
18 times four times -- yes. I mean, Prudential has lots
19 of prescriptions. And one private carrier uses it 20
20 times a year.

21 Well, everytime anybody looks at a job
22 analysis and they don't like it, they change it, the

1 agreement is they send us a flag what the change is.
2 They say the job is out of date, well, they certainly
3 are; and we are not interested in selling old jobs,
4 because we sell salary surveys; and companies don't
5 buy salary surveys with old jobs.

6 So along comes CareerBuilder. Now, in 2002
7 when I talked to you, CareerBuilder did not even
8 exist. They put a whole bunch of people out of
9 business. CareerBuilder is a consortium of all the
10 major newspapers, and they have slowly taken over,
11 and now they exceed Monster.

12 So they send us their salaries, and they
13 get one million visitors a month plus salaries. We
14 sell a product on there called premium report. We
15 ask all the questions, and on page two is the
16 verification of the data. Oh, finding good data. As
17 you know, people don't take a salary report into
18 their boss to ask for a raise.

19 MR. WOODS: I want to point out that David
20 has the material right in our package.

21 DR. THOMSEN: Yes, so that -- he says there
22 is material. They're slides. I really didn't come

1 here to talk about the model that we have. I want to
2 communicate something to you that I think is -- it is
3 just not a technological revolution out there today,
4 there is cultural revolution that is happening. I am
5 almost there with CareerBuilder getting all this
6 data.

7 Now, this data is not just for us. Some of
8 you may not know this, but there are three
9 proprietary systems out there SkillTRAN, and VERTEK
10 and here us; and we're all within 100 miles of each
11 other. We are all friends. For the last year we
12 have been working with VERTEK. They have got our
13 data in their data system. For Social Security to
14 use it, all they have to do is the turn the switch.
15 They don't do it, because it's not approved.

16 So our data is not only out there -- and
17 because it's used by UNUM, you can look at it. You
18 can add up our numbers. You can get standard
19 deviations, it's reproducible; it's defensible. We
20 have to pass the number challenge, because with a
21 carrier, a disability case can end up in federal
22 court.

1 So it's a poor man's attempt at what you
2 have already done. One of the slides there, and you
3 can look at it, because just make a copy, and you can
4 see 2,000 job analysis from the different sources
5 there. The one source -- the internet data is very
6 interesting. I did not know this. This is public
7 information. We had somebody call us up and said,
8 you have got a date stamp there. Have you noticed
9 that your standard deviation is decreasing on the
10 data that you are getting.

11 In other words, it was trash in 2004. It
12 is a little bit better in 2005, and the data is
13 getting better and better.

14 We said why is that so? Yet, I go into
15 companies that we deal with that are using Facebook
16 and Twitter for their performance appraisals; and My
17 Space, they are talking about 200 million people.
18 200 million people that use this one, and 200 million
19 people that use Facebook. The young generation
20 doesn't think about working with the web the way we
21 do. What we're seeing culturally we're just not
22 seeing a technical revolution of what we're dealing

1 with here; we're saying a cultural revolution, I
2 believe.

3 I'm not talking about the design of the
4 space ship here. I am talking about you getting to
5 the end here, and it's quite remarkable.

6 Anyway, there are other things that have
7 happened in the last seven years. I'm running out of
8 time. The best thing that happened was Ms. Linda
9 Lampkin who we worked together in the early 1970's.
10 She was 14 and working for Korn/Ferry and Urban
11 Institute in Washington, D.C., read her data; and
12 Linda is becoming available. Now they're telling me
13 I'm going to take a long trip. We have -- we think
14 we have a lot of material, a lot of experiences to
15 help you. We would love to help you.

16 Welcome, Ms. Linda.

17 MS. LAMPKIN: Always a tough act to follow,
18 Dr. Thomsen. As he said, I'm based in Washington,
19 D.C. I head up the Washington, D.C. office of ERI;
20 and I'm responsible basically for maintaining
21 relationships with different pieces of the federal
22 government and nonprofits, particularly associations

1 that are ERI subscribers.

2 And among the things that Dave didn't say
3 is in the past few years we have hired -- ERI has
4 hired a number of young, bright Ph.D.'s that are very
5 interested in this. We laugh about this, but perhaps
6 they could be wearing "I love DOT" buttons as they
7 work. They're very concerned about figuring out a
8 way to update DOT. And what we have determined over
9 the last seven years is that there really is a way, a
10 21st century way of bringing -- bringing DOT up to
11 date in a 21st century manner. A way that's
12 defensible, that's transparent, that's efficient;
13 that has a built-in ability to update and maintain;
14 and, again, in a cost effective manner. We have been
15 doing it.

16 ERI PAQ has created a product that's
17 developed a method for that updating. Has created a
18 database, has put that database in our commercial
19 products, and in commercial products that you are all
20 familiar with. And it's successfully used by
21 insurers, and successfully used in federal courts.

22 We just want to reiterate that we stand

1 ready to work with SSA and OIDAP as it ventures down
2 the similar path to the one we have already traveled.

3 DR. BARROS-BAILEY: Questions from the
4 Panel.

5 DR. THOMSEN: I have one. Why is it all
6 you guys look older, but you ladies look young? Or
7 is it really possible to be in the same room with
8 R.J. for two whole days and him not say a word?

9 DR. BARROS-BAILEY: We do have a question.

10 MS. LECHNER: I do have a question. How is
11 your data collected on the job demands of the jobs
12 that are in your database? You have job analysts who
13 go out and analyze the jobs?

14 DR. THOMSEN: There are four different ways
15 when you look at the raw data that comes in. PAQ has
16 been doing it the same way since 1974. They train
17 job analysts from companies. The companies go back
18 and work -- when they get their job analyses done,
19 they transmit that.

20 It is part of a deal that Ernest McCormick
21 made, because he wanted to have a database that he
22 would share with new Ph.D. students. And so we

1 collect all the job analyses done by subject matter
2 experts. I will be glad to tell you that when we
3 bought -- we have the full record. So we can see
4 when there were a thousand job analysts working on,
5 there were 300 job analysts, when there were 100 job
6 analysts working.

7 Now, the new Fair Labor Standards Act came
8 along -- that's something else we knew for the last
9 seven years -- in 2004; and about half their job
10 analysts -- probably more in the country -- were done
11 for patrolman and for first line responders for over
12 time. And since the new law came in that was by
13 statute. That cut the number of job analyses done.
14 Now there are about 30.

15 We have owned PAQ now since 2004. Once --
16 I receive RFPs for doing comp studies all the time
17 and consulting. I have never received one RFP for
18 doing job analysis study. Job analysis is not dead;
19 it is statistically dead out there, as far as people
20 working in the trade ground. That's just one way.

21 I mentioned the revolving 33 times three
22 that you can see on the web. That's with

1 CareerBuilder. That's the major traffic coming in.
2 See, we can compare for an accountant the average
3 distribution for those responses versus subject
4 matter expert responses.

5 We also have another group of job analyses
6 that come from the folks that are turning in reports
7 to their boss and discuss some decision making
8 matters, such as salary increase.

9 And the fourth data that's very good is the
10 data that we're getting back from -- from carriers
11 that are using our product. It is just not carriers,
12 because the Fair Labor Standards Act has been doing
13 peer job analysis for the last -- the joking life is
14 when they wrote that law in 2004, they didn't use --
15 they used the term called customarily and regularly.
16 But if you look at the appendix it is described as
17 occasional, less than constant. The DOT lives on.
18 That data is very good.

19 So there are four sources. By far the
20 worse, of course, is the convenient sample. My
21 message to you today is it is getting better --
22 noticeably getting better. It has got to be a reason

1 for it. In the new world we are getting into --
2 there is a culture out there, you just don't lie on
3 the internet. With the My Space, and the predators,
4 you hear about that kind of stuff; but the people
5 that are using it, they are using it for honest
6 feedback and honest communication.

7 DR. BARROS-BAILEY: Okay. Thank you for
8 your time. We have one another quick question.

9 DR. THOMSEN: You are going to ask me a
10 question about numbers. I would to answer questions
11 about numbers. It cost us about half million dollars
12 just to get an employer list. You have got one,
13 Social Security. Why do you need another one?

14 Go ahead, sir.

15 Can I keep talking about numbers then?

16 MR. HARDY: I don't have a question about
17 numbers. I guess getting -- all this stuff is coming
18 at us awfully quickly. I haven't had a chance to
19 review everything in here for you. As a supplement
20 could you give me a copy of the questionnaire you ask
21 people to fill out?

22 DR. THOMSEN: Oh, absolutely.

1 MR. HARDY: That would be great. Question
2 you ask for how the rating is --

3 DR. THOMSEN: Might it be possible to get a
4 list, and I will send everybody the same? Who would
5 I get the address list from?

6 DR. BARROS-BAILEY: Send it to Debra.

7 MS. KARMAN: Send it to the Designated
8 Federal Officer.

9 DR. BARROS-BAILEY: At this point we are
10 exactly at the time we need to finish, and move on to
11 our next presenter for public comment. Thank you
12 both for presenting public comment.

13 Next commenter is Mr. John M. Yent. He is
14 representing the Louisiana Committee of Social
15 Security Vocational Experts. Mr. Yent.

16 MR. YENT: Good afternoon. I hope the
17 microphone is working.

18 My name is John Yent. I'm with the
19 Louisiana Committee of Social Security Vocational
20 Experts. I know it's at the end of very long day. I
21 am sure the only other group of people anxious to get
22 out would be those in the waiting room at the

1 colonoscopy center, but we will move on.

2 As a vocational expert I'm participating in
3 about 600 disability hearings per year. That's
4 probably about 2400 hypotheticals if you break it
5 down by the judges. And basically, we need to be
6 able to have a tool that you all are developing and
7 make it very, very simple to use.

8 As you had a chance to hear from some of
9 the testimony today, the vocational experts are
10 having to respond to hypotheticals that are coming at
11 us fairly quickly, and they're very, very
12 multilayered. And one hypothetical the judge will
13 cover every bit of information from education,
14 physical demands, lifting, carry, all sort of
15 postural variations, pain variations, mental and
16 cognitive impairments, all in one hypothetical. And
17 from that we need to be able to very quickly provide
18 responses to the judge and be able to defend what
19 those responses are.

20 In addition, we have the opportunity to
21 respond to questions from the claimant or the
22 claimant's representatives. And that information,

1 frankly, has to be something that the vocational
2 expert is able to respond to in an organized way, but
3 also in a very defensible way.

4 As you have heard from testimony, we have
5 lots of occasions where we are paused at a hearing
6 basically looking up this information from what our
7 resources are. Thankfully, we're not dragging around
8 10-pound volumes of the DOT. When I did that, I was
9 50 pounds lighter. But doing things now, we're
10 having more flexibility with computer programs.

11 So we really do need that the program you
12 are developing is going to have very easy search
13 abilities. It will give the vocational expert a lot
14 of options in terms of plugging in what types of
15 limitations are excluded so that we can respond
16 quickly.

17 The other thing we want to ask is that as
18 you are looking at classifications -- and this is
19 mentioned earlier -- instead of having just the
20 frequency limitation of occasional, frequent, or
21 constant, we think there also needs to be another
22 fourth category added, and that would be rare. Rare

1 could be some classification of zero to five percent
2 of the time, perhaps.

3 We have a fair amount of time that's spent
4 during cross examination of the VEs work. We're
5 actually questioned quite extensively, well, can a
6 person do "X" activity on an occasional basis? And
7 generally speaking, that means we have to default to
8 whatever a maximum classification is that is a third
9 of the actual work day. A lot of times activities
10 don't really involve a full amount of occasional. It
11 is just a very small amount of time. So if we could
12 add the category of rare, that would be very, very
13 helpful.

14 The other thing we want to keep in mind is
15 that in terms of the mental elements that you are
16 going to be adding to this new occupational
17 information tool, we really think it's important that
18 we stay away from terms of classifications that have
19 to further be redefined at each hearing. Those would
20 be terms like "moderate." Those would be terms like
21 "marked." There would be terms like, less than
22 moderate. These are terms that don't mean as much to

1 a vocational expert, as they would to, perhaps, a
2 clinical psychologist.

3 As a vocational expert it's much more
4 meaningful to me to tell me that the person -- the
5 person's ability, for instance, to maintain a regular
6 work schedule is going to be, you know, 75 percent of
7 the time. That will tell me the person can't work.
8 If they can't be reliably there, that's going to tell
9 me, they really can't work. Telling me they have a
10 moderate ability to maintain a work schedule, not so
11 helpful.

12 As well, all of the judges that are dealing
13 with these types of, you know, generalities in terms
14 of the definitions, they're having their claimant
15 representatives when there is one, basically define
16 what they intend moderate to mean. So from our
17 standpoint we may have six hearings in one day with
18 different claim representatives or claimant
19 representatives, all of whom may have a different
20 definition of what moderate means to them. So
21 therefore, we're constantly adjusting that.

22 In terms of having reliability, we want to

1 make sure that everyone is using the same terms. So
2 to the extent that that's possible, that would be
3 very helpful.

4 In addition to that, I think that any type
5 of product that you are looking to roll out should
6 have the input and the involvement of the field of
7 vocational experts that's available nationwide.
8 There are approximately 1100 Social Security
9 vocational experts that are serving 141 ODAR offices
10 across the country. You already basically have a
11 team of vocational experts who all have oftentimes
12 multiple decades of experience doing job analysis
13 information who are also there testifying at these
14 hearings, and also bring a tremendous amount of
15 experience to bear in terms of occupational
16 measurement; and also interpreting those factors in
17 an occupational analysis that are meaningful for
18 Social Security.

19 So I definitely encourage you to consider
20 focus group. Consider VE input, because we are
21 already a main team of experts for you.

22 I think, finally, the thing to keep in mind

1 is that we all share the same goal of providing
2 reliable, consistent information, making it simple to
3 use. We want to be able to help at the hearing
4 level. Of course, the tool you are developing,
5 certainly, would be useful at the DDS level.

6 Anything that we can do to be of assistance
7 in that manner, I think would most certainly be
8 welcomed by the VEs. And I would be happy to answer
9 any questions that you may have. Thank you for your
10 time.

11 DR. BARROS-BAILEY: Thank you, Mr. Yent.

12 Are there any questions from the Panel?

13 MR. YENT: Thank you for your time.

14 DR. BARROS-BAILEY: Okay. Our next
15 presenter is available telephonically. It is Angela
16 Heitzman. She is from a -- let's see, a -- St. Louis
17 Park, Minnesota. Angie, are you on the phone?

18 MS. HEITZMAN: I am.

19 DR. BARROS-BAILEY: We could barely hear
20 you. Could you speak maybe a little louder.

21 MS. HEITZMAN: Yes.

22 DR. BARROS-BAILEY: Okay. We can hear you

1 now.

2 MS. HEITZMAN: Okay.

3 DR. BARROS-BAILEY: Thank you. Go ahead,
4 Ms. Heitzman.

5 MS. HEITZMAN: Good afternoon. Thank you
6 for the opportunity to speak with you. My name is
7 Angela Heitzman. I am a rehabilitation consultant,
8 life care planner and vocational expert from
9 Minnesota. I have been employed in this capacity for
10 25 years. I am on the Board of Directors for the
11 International Association of Rehabilitation
12 Professionals, IARP, as forensic section
13 representative. I'm also the chairperson of the IARP
14 Occupational Database Committee.

15 IARP established the Occupational Database
16 Committee in the Spring of 2007 to research and
17 evaluate existing databases to replace the Dictionary
18 of Occupational Titles. Two such databases were
19 identified, eDOT from the Economic Research Institute
20 and McDOT from Vocationology.

21 In our research we addressed five issues,
22 the history of DOT; how it is used and who uses it;

1 the importance of replacing it with a current
2 database; a review of the existing databases; and the
3 most critical factors in developing a new
4 occupational database.

5 During this process we identified what we
6 considered the most important factors in creating an
7 updated occupational database, things that are in
8 part lacking in the DOT, eDOT and McDot. And this is
9 what I would like to share with you today.

10 It's a lot of information, and I'm going to
11 talk kind of quickly to try to get through as much of
12 this as I can. The first section has to do with job
13 analysis issues.

14 Number one, identify -- identification of
15 an agreed upon job analysis format that is
16 standardized, reliable, and valid.

17 Number two, reevaluation and redefinition
18 of worker characteristics, for example, what
19 constitutes a physical demand.

20 Number three, development of improved
21 definitions and indicators for attributes and scales
22 for each.

1 Number four, expanded physical demand
2 ratings, such as sitting, standing, walking,
3 reaching, bilateral, unilateral, upper extremity use,
4 that type of thing.

5 Number five, addition of basic skills
6 including keyboarding and technology use.

7 Number six, addition of attributes,
8 including cognitive requirements and deletion of
9 attributes that are not pertinent any longer.

10 Number seven, indication of preferred
11 personal quality of workers for successful
12 performance, including attitude, initiative,
13 persistence, that type of thing.

14 Number eight, indication of acceptable
15 methods of preparation for entry into occupations,
16 such as formal education, vocational schools,
17 licenses, and certifications needed.

18 Number nine, indication of barriers to
19 hiring for specific occupations, including criminal
20 history, appearance, et cetera.

21 Next section is data collection. Number
22 one, a comprehensive multilevel, stratified sampling

1 plan to ensure that all sectors of the labor market
2 are represented.

3 Number two, an audit to identify where
4 occupations are found within businesses and
5 industries of all sizes, including small employers
6 and self-employment.

7 Number three, the use of only trained and
8 qualified professionals as job analyst.

9 Number four, determination of how job
10 analyst will be trained and retrained.

11 Number five, identification of whether job
12 analyses will be completed solely by our resurrected
13 field offices within the public sector or with help
14 from the private sector.

15 Number six, the coding methodology used
16 most make sense.

17 Number seven, avoidance of incumbent
18 ratings due to reliability problems with this data.

19 Number eight, use of an online system for
20 input of job analysis data with quality control for
21 input and output ensured at all stages of
22 development.

1 Number nine, insurance that the database
2 reflects the economy and labor market.

3 Number ten, multiple measures for each
4 attribute.

5 Number 11, appropriate scaling for each
6 attribute sub-measures that make sense.

7 Number 12, identification of variables
8 needed in order to complete a transferable skills
9 analysis job match. Once these are identified
10 development of scales with use of accepted
11 psychometric practices to increase reliability. This
12 should include review, revision and expansion of work
13 fields and MPSMS quoting structures that are so
14 critical to the existing CFR definition of skills
15 transferability.

16 Number 13, proper instrumentation and
17 equipment must be available to conduct objective, and
18 measurable job analyses rather than strictly by
19 observation.

20 Number 14, the total number and range of
21 attributes should be limited to what an analyst can
22 handle without diminishing the quality of the data

1 being gathered.

2 Next section is data use. Number one, the
3 methodology used will need to be explained in the
4 simplest of terms as possible for ease of customer
5 understanding and use.

6 Number two, processes and methodologies as
7 well as results of data usage, must be easily
8 explainable to ALJs, judges, juries, attorneys, et
9 cetera.

10 Number three, the software used to access
11 the data and perform transferable skills analysis and
12 other tasks should be simplified wherever possible to
13 reduce errors and improve understandability.

14 Number four, it should be available as a
15 stand-alone database of information, not solely as
16 part of a transferable skills analysis product.

17 Number, five end users should be allowed to
18 search, compare, and retrieve information in the
19 database.

20 Number six, development of crosswalks to
21 other occupational coding systems should be well
22 explained.

1 Number seven, there should be capacity to
2 generate printed reports.

3 Number eight, provide data to end users in
4 a variety of formats, including online and in print.
5 It is particularly important that the data not
6 require an internet connection, so it to be accessed
7 during Social Security hearings.

8 Number nine, the database author should
9 have vocational rehabilitation personnel on staff
10 during the development phase and for customer
11 support.

12 The next section is database updates. The
13 database should be continually updated.

14 Number two, changes in the labor market
15 need to be continuously monitored and reflected in
16 the database.

17 Number three, project staff should work
18 closely with OES Long-term Projection Survey and
19 other BLS statisticians to learn of new and emerging
20 occupations and industries.

21 Number four, sufficient funding must be
22 provided to develop an improved database and to

1 ensure its maintenance into the future.

2 The last section is integration of the
3 database to other sources.

4 Number one, methods should be established
5 for integrating the new database with existing
6 related classification systems, such as SOC, O*Net,
7 NAICS, et cetera.

8 Number two, the database should be
9 integrated with updated companion databases including
10 the Guide for Occupational Exploration.

11 I know this is a lot of information in a
12 short time, but we believe it is import that you
13 consider these items in your process. Our findings
14 will be published in the Rehabilitation Professional
15 Journal in July of 2009, and we will provide you all
16 with copies. Thank you for your time.

17 DR. BARROS-BAILEY: Thank you,
18 Ms. Heitzman.

19 Panel, are there any questions for her?

20 MS. KARMAN: Yes, this is Sylvia, Angie. I
21 was wondering if you could tell us what you mean in
22 the last two items with regard to integrating the new

1 database with existing related classification
2 systems, and integrating with updated companion
3 databases. I'm not sure I know what that means.

4 Earlier your points refer to crosswalk. So
5 I'm taking it that that's not what you mean.

6 MS. HEITZMAN: Well, ideally I think, you
7 know, if there is some way to integrate with the SOC
8 Classification System that would be ideal. So that's
9 kind of what we're talking about there. Also the
10 crosswalk thing is part of that.

11 Also, we felt the need for the companion
12 database to be updated and to be thoroughly cross
13 walked to each other, and easy for you.

14 MS. KARMAN: Thank you.

15 DR. BARROS-BAILEY: Any other questions for
16 Ms. Heitzman?

17 MR. HARDY: Good afternoon. My name is Tom
18 Hardy, and I look forward to reading your article. I
19 can't wait to get a copy.

20 I'm just curious under one -- number seven
21 of your job analysis issues, indication of preferred
22 personal qualities of workers. Can you expand on

1 that a little bit. I'm not quite sure what that --
2 where that's coming from.

3 MS. HEITZMAN: Well, that would be more of
4 an ideal thing that we would like to see. This would
5 be qualities that are probably not as easily
6 measured; but things that are important to each job,
7 the attitude, initiative. We had a whole laundry
8 list of words that we used in that section. But
9 there are things that are important to maintaining
10 the job more than anything.

11 MR. HARDY: And is that expanded upon in
12 your article?

13 MS. HEITZMAN: Yes.

14 MR. HARDY: Okay. I'm assuming number nine
15 is also expanded upon a little bit?

16 MS. HEITZMAN: Yes.

17 MR. HARDY: They appear somewhat the same.

18 MS. HEITZMAN: Yes, everything is expanded
19 upon in the article. It's quite lengthy.

20 MR. HARDY: Okay.

21 DR. BARROS-BAILEY: Okay. Any other
22 questions of Angie?

1 Okay. Thank you, Ms. Heitzman.

2 MS. HEITZMAN: Thank you.

3 DR. BARROS-BAILEY: Thank you.

4 On behalf of the Panel I would like to
5 thank everyone who gave public comment. Your input
6 is important to this process. And through this
7 process, as we gain vital information, that will help
8 us inform our recommendations to Social Security.

9 As we kind of come to the end of our day, I
10 just want to kind of prepare the Panel for some
11 things that's happening tomorrow.

12 I want us to keep in mind that the case
13 that we had before us and the various parties that
14 dealt with the case. So document your thoughts in
15 terms of the demo ideas and feedback. Questions and
16 follow-up to clarify any of the issues that you might
17 have.

18 We're going to be doing some business
19 tomorrow. The operating guidelines and Minutes that
20 we all have in our three ring binders. And we also
21 were given a variety of papers that were on the road
22 map, and I will just draw your attention to those.

1 We talked about them yesterday at the beginning of
2 the day, and we will be talking about those somewhat
3 tomorrow. So if you have thoughts that were in those
4 papers, just to keep into mind we will be talking
5 about it.

6 They were the use of the Dictionary of
7 Occupational Titles, and SSA's disability program,
8 SSA's concerns with O*Net. SSA proposed plans and
9 methods for developing a content model. Particularly
10 that Yule (phonetic) paper that we got, that expands
11 that quite a bit.

12 I think there are a couple of others that
13 are not coming to mind right now. But -- the data
14 needs and requirements, that's a pretty important
15 one; and the overview of Social Security's plans for
16 developing the Occupational Information System. So
17 if we could keep those things this mind as we move
18 into tomorrow, that would be great.

19 At this time I will entertain a motion to
20 adjourn the meeting. Anybody want to do it?

21 DR. WILSON: So moved.

22 MS. KARMAN: Second.

1 DR. BARROS-BAILEY: Okay. A motion by
2 Mark, seconded by Sylvia to adjourn the meeting.
3 Thank you, everybody. 8:30 tomorrow.

4 (Whereupon, at 4:31 p.m., the meeting was
5 adjourned.)

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CERTIFICATE OF REPORTER

I, Stella R. Christian, A Certified
Shorthand Reporter, do hereby certify that I was
authorized to and did report in stenotype notes the
foregoing proceedings, and that thereafter my
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I further certify that the transcript of
proceedings contains a true and correct transcript
of my stenotype notes taken therein to the best of
my ability and knowledge.

SIGNED this 21st day of May, 2009.

STELLA R. CHRISTIAN