

**THE STATE OF THE
VETERANS BENEFITS ADMINISTRATION**

HEARING
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND
MEMORIAL AFFAIRS
OF THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED ELEVENTH CONGRESS
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THE STATE OF THE VETERANS BENEFITS ADMINISTRATION

TUESDAY, JUNE 15, 2010

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

The Subcommittee met, pursuant to notice, at 2:05 p.m., in Room 340, Cannon House Office Building, Hon. John J. Hall [Chairman of the Subcommittee] presiding.

Present: Representatives Hall, Halvorson, Donnelly, Lamborn, and Bilbray.

OPENING STATEMENT OF CHAIRMAN HALL

Mr. HALL. Good afternoon. Would everybody, to begin our meeting, please rise for the Pledge of Allegiance.

[Pledge of Allegiance.]

Thank you. And welcome to the House Committee on Veterans' Affairs, the Subcommittee on Disability Assistance and Memorial Affairs.

Our hearing today is on the state of the Veterans Benefits Administration (VBA). I welcome everybody and look forward to hearing from our panels. This hearing represents the seventh hearing that we have held this year, and the 15th for the 111th Congress, which we have conducted relating to problems plaguing the disability claims processing system. So oversight has been vigorous with significant activity on this front from stakeholders across the board.

The system is still, however, in dire need of continuing reform. Today, there are over 546,000 compensation and pension (C&P) claims awaiting final processing, with a total inventory or backlog of over 1 million claims and appeals within the VBA pending a decision. VBA employs over 13,000 personnel in its compensation and pension operation, and this figure represents a staffing increase of 32 percent since Democrats became the majority party in 2007 in Congress.

However, as we stated in the past, the problems plaguing VBA are not just workforce issues; they are leadership methodology, cultural and technology issues. That is why we passed the Veterans Benefits Modernization Act, H.R. 5892, which was included almost in its totality in Public Law 110-389. As many of you in this room recall, with your help P.L. 110-389 established a guided roadmap for VA to get us to where we are today—encouraged by the reform

efforts that VA is making, but cautious to make sure that we are doing everything we can to help VA make those meaningful reformations of its claims processing system.

There has been major progress since the passage of Public Law 110-389. For instance, very recently, today the VA adopted a shortened claims filing form as well as other easy forms like the fully developed claims forms for both compensation and pension claims. The inclusion of a checklist will increase compensation requests. You, the VA, have heeded the call of Congress as outlined in Public Law 110-389, and I applaud you, as I am sure other Members of this Subcommittee do, for your efforts to bring this to fruition.

VA also has a number of claims processing related pilots underway, and I applaud your activity and proactivity in this area. I would like to caution, however, that we want to avoid action for the sake of action. We are committed to ensuring that the 30-plus ongoing pilots translate to real change for our veterans and for our survivors who are still languishing in the backlog.

I think most stakeholders believe that a comprehensive overhaul is still in order, and I am encouraged that we seem to be on the right path to get there. We seem to have the right leader for this monumental task in Secretary Shinseki, who has both the vision and commitment, in my opinion, to get us to a more veteran-centered 21st Century system claims processing system.

We all know about the myriad of problems plaguing the VBA's current system; the lack of adequate training; a 30- to 40-percent error rate; a paper-based system; still an overemphasis on quality and underemphasis on quantity—or, I am sorry, an overemphasis on quantity over quality without putting enough emphasis on accountability, consistency, or accuracy.

As I have said many times, and I know that many of you agree, as does Secretary Shinseki, we want a system that gets it right the first time, one that renders decisions in which our veterans and stakeholders can have 100 percent confidence.

Currently we are not there, but as they say in the self-help world, we are looking for progress, not perfection. None of us expect to get to perfection instantly, but we are, however, seeking progress. We are not here to blame anyone for where we are today. The claims backlog has been a decades-old problem that is coming to a head mostly because we are engaged currently in two wars, for which there was little planning for the veterans of those wars at the same time that our older veterans are aging and need more care.

We want to focus on solutions. I expect to get a comprehensive update on where the VA is today, what it plans to do to meet its 2015 claims transformation target with its new Veterans Benefits Management and Veterans Relationship Manager Systems. We also want to know if and how these two systems interface with the Virtual Lifetime Electronic Records (VLER) Initiative announced by the President.

Lastly, we look forward to hearing about the state of the VA's efforts to bring aboard a permanent Under Secretary for Benefits.

I think we all have the same goal, which is to ensure that we have a world-class 21st Century claims processing system that

helps our veterans, their families, and their survivors secure the benefits they deserve and that they have earned, without delay.

With that, I look forward to the insightful testimony of our witnesses. I now will recognize Ranking Member Lamborn for his opening statement.

[The prepared statement of Chairman Hall appears on p. 39.]

OPENING STATEMENT OF CONGRESSMAN LAMBORN

Mr. LAMBORN. Thank you, Mr. Chairman. It has been about a year since we first convened as a Subcommittee to discuss VA's ongoing struggle to overcome the backlog of disability claims. Multiple hearings have been devoted to this topic and to the underlying need for VA to improve the timeliness and accuracy of its adjudication process.

Now, anyone who has followed this Subcommittee's hearings over the past several years knows that I have long advocated for better use of information technology as a partial remedy to VA's problems. I am pleased that the virtual regional office (RO) concept I introduced in 2007 to modernize the claims process is being included in the Veterans Benefits Management System (VBMS). I hope that it and other integral parts of the VBMS will establish the framework needed to transform VA into a 21st-Century benefits system.

I look forward to hearing from our VA panel this afternoon for an update on the status of the pilot programs that are underway. And I would like to know how long will it be before they are implemented and how soon will they have a positive impact.

While I understand that diligence is required when a foundation's pillars are being set, it is imperative that VA continues its progress with the utmost sense of urgency. Veterans are suffering as a result of the ever-increasing inventory of claims, and this is simply unacceptable. There was no hesitation on their part when it came to serving our Nation in a time of need, and they should not have to wait months and years to receive compensation for the injuries they incurred during service.

Thank you, Mr. Chairman. And I yield back.

[The prepared statement of Congressman Lamborn appears on p. 40.]

Mr. HALL. Thank you Mr. Lamborn.

I would remind all panelists that your complete written statements have been made a part of the hearing record. Please—oh, I am sorry, Mrs. Halvorson, would you like to make a statement?

OPENING STATEMENT OF HON. DEBORAH L. HALVORSON

Mrs. HALVORSON. Sure. Thank you, Mr. Chairman.

I would like to just thank and congratulate you on the intense meetings that we have had over the backlog. This is the number one complaint I get every time I go back home. I have a Veterans Advisory Committee that we get together, and once we get on the backlog issue we never get off of it. I think that it is true that this is a part of a bigger problem, and we need to continue to focus on it. We have to remember that it is not about activity, it is about results. We don't want to confuse the two. So just throwing more people after a broken system is not what we want to do. I am look-

ing forward to continuing the effort. This is our mission and we have to see it through.

Mr. HALL. Thank you, Mrs. Halvorson.

Panelists, please remember that your written statements have been made a part of the hearing record so you can limit your remarks so that we may have sufficient time to follow up with questions.

Will today's first panel please come and join us at the witness table. Dr. Ronald Blanck, a Member of the Advisory Committee on Disability Compensation at the U.S. Department of Veterans Affairs; Carol Wild Scott, Veterans Law Section (VLSL) of the Federal Bar Association; Joseph Violante, National Legislative Director of Disabled American Veterans (DAV); and Ian de Planque, Assistant Director, Veterans Affairs Rehabilitation Commission, the American Legion. Thank you all for joining us again, and welcome.

Mr. Blanck, you are now recognized.

STATEMENTS OF LIEUTENANT GENERAL RONALD R. BLANCK, USA (RET.), D.O., MEMBER, ADVISORY COMMITTEE ON DISABILITY COMPENSATION; CAROL WILD SCOTT, CHAIRMAN, VETERANS LAW SECTION, FEDERAL BAR ASSOCIATION; JOSEPH A. VIOLANTE, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; AND IAN C. DE PLANQUE, DEPUTY DIRECTOR, VETERANS AFFAIRS AND REHABILITATION COMMISSION, AMERICAN LEGION

STATEMENT OF LIEUTENANT GENERAL RONALD R. BLANCK, USA (RET.), D.O.

Dr. BLANCK. Thank you very much, Mr. Chairman. I would just like to summarize a few points from my witness statement.

First of all, to note that I am here representing our Chairman, General Scott, who is farming in Texas and could not leave, and so he asked if I would represent him and the Committee. And it is a pleasure.

You know what our Committee does. Our charter is in the statement. We have now met 19 times over a close to 2-year period, and forwarded an interim report with recommendations to the Secretary that addressed our efforts in July of 2009. We received a response from the Secretary in February of 2010, and if those copies aren't available, I do have them for you. The first you were provided; the second you may not have seen. And we are in the process of preparing a draft report for the Secretary and for Congress, as required, which will be available in October of this year, that will summarize the work that we have done, the recommendations we have, and the progress the VA has made.

Our focus of course is in three areas. It is methodology for reviewing and updating the Veterans Administration Schedule for Rating Disabilities (VASRD); that is, the VA schedule for rating disabilities, because that is central to everything. And that if it is done properly, it will in and of itself reduce the backlog, reduce the appeals that add to the backlog and all of that.

We are also looking at the transitioning of the servicemember from military to the VA.

And finally, disability compensation for noneconomic loss, often referred to though not in any legislation that I have seen, as quality of life, which is now not very much a part of compensation.

Where we are in the VASRD, of course, is that we have seen progress. The VA is taking this very, very seriously. And I have to acknowledge that standards for the diagnosis and evaluation of traumatic brain injury (TBI) have been established. There has been progress in reviewing the entire mental disability category, because the mental health disability seems to be the most problematic, given the difficulty of measuring it, and it matches least well with other disability of other body systems.

Preliminary steps are also underway to review the musculo-skeletal and the endocrine systems. Again, we are convinced that reviewing these body systems and updating the VASRD will pay great dividends.

We have proposed a level of permanent staffing for both the VBA—the Veterans Benefit Administration—and the VHA—the Veterans Health Administration—to ensure that all 15 body systems are reviewed and updated as necessary in a timely way, a minimum of three per year so that all 15 would be reviewed in a 5-year period on a recurring basis.

We have also proposed a priority among body systems that takes into account which are at greatest risk of inappropriate evaluations; problem prone, relative number of veterans and veterans' payments associated.

The Secretary's response to all of our recommendations has been timely. The Secretary and his staff concur in general with most of our recommendations at least; however, he does not commit—the agency has not committed to specific management procedures, staffing, or timeline for review and update. And in our full report in October, we will comment on this and see if we can work more closely and get some of the detail we feel is necessary. Now, the VA is working on these; we just don't have some of those details.

We have also proposed a detailed procedure for review and updating the VASRD, which I have available. We believe that there will be two studies necessary as the rating, schedule for rating disabilities is reviewed. One is to validate the horizontal and vertical equity in the tables of disability, and the second is looking at the vocational rehabilitation program.

We continue to review the quality-of-life issue using special monthly compensation (SMC) as a model. We are looking at transition issues, and I believe we are progressing on a broad front. The Committee has had excellent access to the Secretary, to the staff. We are very pleased with our working relationships with the VA and other organizations.

That concludes my report, and I stand ready to take questions. Thank you very much.

[The prepared statement of Dr. Blanck appears on p. 40.]

Mr. HALL. Thank you, sir.

And, Ms. Scott, you are now recognized.

STATEMENT OF CAROL WILD SCOTT

Ms. SCOTT. Thank you. Good afternoon Chairman Hall, Ranking Member Lamborn and Members of the Subcommittee.

I am pleased to provide this testimony on behalf of the Veterans Law Section of the Federal Bar Association. Indeed, the backlog is more symptomatic of a process out of control. For too many decades it has operated as if only the subordinate persons were in charge, each with an individual regional command operating day to day as the individual circumstances may dictate. This Secretary, more than any of his immediate predecessors, has the leadership skills to meet the challenge and at the same time gain the trust he must have from at least the two communities of the veterans and the VA itself.

We continue to urge very serious consideration of the pod process of processing claims. Dividing the processors into discrete teams that incorporate all of the individual skills provides an opportunity for mentoring, on-the-job training, and provides also opportunity to develop specific areas.

This is something that we would suggest they look at; that some teams within this process specialize in the things that seem to provide the greatest problems in training and continuing education—herbicide exposure, post-traumatic stress disorder (PTSD) and mental disabilities and neurological issues, TBIs. These are complex, involving many body systems, and people who are attuned and trained specifically in those areas would facilitate those claims.

We also continue to encourage VBA to enhance the position of decision review officer as an immediate supervisory personnel over the claims processing teams within the pod structure, tested and certified, at least to pass the agent's exam; in this position would exercise quality review over the decisions for adequacy of development, as well as accuracy of decision making.

We also recommend that this modality include a full-time training coordinator in each regional office monitoring on-site training needs and requirements, setting curricula consistent with those universal to the agency and ensuring that instruction and questions and answers are available to every employee.

We also renew our encouragement of a treating physician rule. Regardless of whether treatment has been by VHA or private providers, nexus opinion and questions of the level of disability or the extent of impairment should be addressed to those providers. The traditional concept that a VHA physician is incompetent to provide a nexus opinion because the treating physician is inherently biased is inherently absurd.

VLS continues to urge legislative amendment of 38 U.S.C. section 5904(c) to expand the availability of fee-based representation to veterans filing the initial claim with the VA. The regulations governing fee-based practice before the agency are the most restrictive of any Federal agency. Regardless of extensive self-regulation in State and Federal Court rules of ethic and conduct, the VA continues to regard attorneys with an unwarranted mistrust. The demographic has changed. Today's veteran has fought a highly technological war. This is the best-educated army in history. Men and women who have fought and survived significant horrors of today's battlefield deserve the dignity of determining for themselves whether they wish to represent themselves, be represented by an organizational veterans service organization (VSO), or retain professional counsel. This generation of veterans, like Vietnam vet-

erans before them, has founded their own veterans organizations to address the issues inherent and the conflicts they experience. Just as the Vietnam veterans, they support fee-based representation before the agency, beginning at the point at which the claim is filed.

The Veterans Law Section does not support other provisions of the Secretary's proposed legislation, including the imposition in sections 202 and 203 of jurisdictional time limits appeal within the agency. This is a somewhat cynical effort to eradicate the backlog by making it extremely difficult for a generation of veterans to perfect their claims and meet shortened filing deadlines, when over half of them are diagnosed with TBI, post-traumatic stress disorder (PTSD), or other mental disorders, all of which impair their ability to organize and respond to those deadlines.

Neither do we support the proposal in section 206 that the board no longer be required to render decisions in which factual determinations are supported by adequate reasons and bases, but only that they be plausible. In conclusion, the Veterans Law Section thanks the Subcommittee for the opportunity and urges that it is the responsibility of all of us to ensure that the quality of life is met as humanly, as much as humanly possible.

With now over 1 million pending claims, it matters not who represents whom or on whose shoulders the blame properly lies. The job must be done, and rather than ensure that each recommendation for revision or reform is nibbled into oblivion by the ducks of turf protection, it is time to recognize, as the cartoon strip character Pogo once did, we have met the enemy and he is us.

Thank you for the opportunity to present these views on behalf of the Veterans Law Section of the Federal Bar Association. I will be happy to respond to any questions.

[The prepared statement of Ms. Scott appears on p. 42.]

Mr. HALL. Thank you, Ms. Scott. You have given us the quote of the day so far, "the ducks of turf protection."

Mr. Violante.

STATEMENT OF JOSEPH A. VIOLANTE

Mr. VIOLANTE. Mr. Chairman, Members of the Subcommittee, thank you for holding today's important hearing on the state of the Veterans Benefits Administration. DAV has comprehensive recommendations on all their programs in our annual legislative agenda as well as in *The Independent Budget*, and we recommend those publications to the Subcommittee.

Mr. Chairman, as you know, thousands of disabled veterans today face unacceptable delays and unjustified denials of their applications for VA benefits. As of June 5th, there were about 550,000 pending claims for compensation and pension awaiting rating decisions. Almost 200,000 of these claims were waiting over 125 days. Worst, by VBA's own measurement, the accuracy of disability compensation rating decisions for the past year was just 83 percent, continuing a downward trend.

However, despite these problems there are some reasons to be optimistic about VBA's prospects for improvement. Recently both VA and VBA leadership have acknowledged longstanding problems and looked for new solutions. VBA has over three-dozen new initiatives underway that may help transform the archaic paper-based

claims processing system to a modern information technology (IT) centrist process. We believe VBA is headed down the right path; however, they will not succeed without effective leadership internally and strong oversight externally.

Mr. Chairman, VBA must remain focused on getting claims decided right the first time, not just on reducing the backlog. After all, the backlog is not the problem, nor is it the cause of the problem, it is a symptom. Lowering the backlog does not guarantee that veterans will get all the benefits they have earned in a timely manner.

To be successful, VBA must engage in a true partnership with VSOs. Last year, DAV alone helped a quarter of a million veterans and their families free of charge in their claims for VA benefits.

DAV and other VSOs are not just interested observers in this process, we are active and essential components of the system itself. VBA must solicit and incorporate our input at the beginning of their transformation efforts, not just update us during implementation.

VBA has launched dozens of new pilot programs at regional offices, almost entirely without input from VSOs, either nationally or locally. We believe this is a mistake for a number of reasons. Not only do VSOs bring vast experience and expertise about claims processing, but we hold power of attorney for hundreds of thousands of veterans and their families. When we help veterans prepare and submit claims, VBA spends less time and resources developing and adjudicating them. We urge VBA to integrate us into their planning for new initiatives from the beginning.

Mr. Chairman, as VBA pilot programs have been rolled out, we have found some areas of concern in their implementation. For example, VBA recently rolled out the Fully Developed Claim, FDC, Program. And while we support this program, it requires changes to fully protect veterans rights. Unlike the normal claim process, under the FDC Program a veteran cannot file an informal claim. As a result, veterans have to choose between a quicker decision under FDC or an earlier effective date under the regular process. We have discussed this issue with VBA, and Congressman Joe Donnelly is prepared to introduce the legislation. We urge this Subcommittee to work with him to fix the problem.

Most important to VBA's reform and modernization is the ongoing development of a new IT system, particularly the Veterans Benefits Management System, or VBMS. The final VBMS must have comprehensive and realtime quality control and must utilize intelligence of modern IT systems, which must include rule-based decision support. We are concerned that in a rush to meet self-imposed deadlines for rolling out VBMS, programmers may be under pressure to cut corners. We urge this Subcommittee to continue its aggressive oversight of VBA's IT projects.

Mr. Chairman, in assessing the state of VBA, we do want to recognize the important steps that have been taken by VA, however, we firmly believe that VBA cannot be completely successful unless they truly seek a mutually beneficial partnership with the VSOs.

Mr. Chairman, I want to commend you and this Subcommittee for all that you have done to help reform VBA in the claims proc-

essing system. I would be pleased to answer any questions. Thank you.

[The prepared statement of Mr. Violante appears on p. 46.]

Mrs. HALVORSON [presiding.] Mr. de Planque, you are next. You are recognized for 5 minutes.

STATEMENT OF IAN C. DE PLANQUE

Mr. DE PLANQUE. Thank you. Good afternoon, Members of the Subcommittee. On behalf of the American Legion I would like to thank you for the opportunity to provide testimony today.

The VA is obviously in a very difficult position, but they have come forward and spoken of their problems. And the first step towards the solution is to admit that you have a problem. The recent aggressive stance taken by Secretary Shinseki of breaking the back of the backlog in this year and reducing the claims to a 98 percent claims rate and no claim over 125 days is admirable and aggressive and will be incredibly difficult to implement. It is an encouraging sign, but we cannot fully credit that sign as a movement forward without seeing the results as they come forward.

One of the key components that has been a problem for VA is assessing the quality figure. The 98 percent is an admirable target; however, as was recently noted, 83 percent was the rate that VA is assessing themselves for last year, which is down 4 percent from the previous year, 87 percent. The Office of the Inspector General (OIG) even stated that that was 10 percent higher than their internal figures. And when the American Legion had done claims visits and quality review visits to regional offices, we found that the number is actually closer to 60 to 70 percent accuracy rate.

Why is this important? Because when you are processing 1 million claims, 1 percent of error is 10,000 veterans. It is completely unacceptable. And VA must take steps to ensure that the quality is the driving force towards driving down their backlog. Approximately 50 percent of the cases that go before the Board of Veterans' Appeals (BVA) are remanded back, sent back into the system because they weren't done right the first time. This is a recursive loop that only keeps these claims in the system and will not reduce the backlog. Getting the claim done right the first time removes it from the backlog.

VA has instituted a number of pilots which are very promising and are very helpful; however, without proper involvement from the ground floor with the service organizations, we have questions about the success of those pilots. Some of them, they have been very generous with the access, and we have been out to see their pilots in Little Rock and Providence and Pittsburgh recently, and have seen some very good signs.

In Baltimore, where they were piloting a very important virtual regional office, despite mentioning in the Roundtable of this committee the importance of that program, they still were not able to get the VSOs or Congress involved in seeing these programs. We need to be involved while they are happening.

With the recent programs in Pittsburgh, they are experimenting with things that have long been mentioned by the service committees creating templates for private physicians to alleviate some of the load on VA physicians and help get those exams done faster,

providing public contact with the veterans to call and follow up to the notoriously confusing Veterans Claims Assistance Act (VCAA) letters.

These are great steps forward and the initial indications are that the interaction with the veterans are leading to a better understanding of the claims process. The veteran service organizations have stepped forward and asked to be involved and asked to help with the contact with the veterans and facilitate this communication. And VA is slow to include us in the process.

We are very heartened by the steps they are taking and that they are reaching out. We are having more meetings with VA to discuss the situation, to discuss the problems from an earlier stage in the development. But without full inclusion, the end users of the system, both VA and the VSOs and the veterans who use the system, won't have the full share of development in that system, and it will lead to a faulty system.

It is difficult to give the VA a grade on the state of the VA at this point, other than incomplete at this time, because there are so many pilots that are in a state of flux that are going forward.

The VBMS system shows tremendous promise. It is the first time that we are beginning to see where these pilots are leading into, and that it will be a truly integrated IT system that will actually capitalize on those electronic developments and use it to move the claims process forward to be more accurate, to be more timely, and to be more helpful. However, until we have seen these things implemented, it is difficult to see what the end result would be.

We are optimistic, and we commend the Secretary and the Administration for the hard work that they are doing and for the open hands that they are putting out to the service organizations, but we are also mindful and cognizant of the fact that we have heard promises from VA in the past and they have not always followed through. And the promise to the American veterans is what is important.

We thank you for the opportunity to comment, and we will be happy to answer any questions.

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

Mrs. HALVORSON. Thank you, Mr. de Planque.

Before we ask questions I have a few of my own. So you are encouraged by the fact that you have heard that the VA wants to listen, they are including some new practices, and that they are going to reach out to work with you. Because you say that you want to get this done right the first time, which I think we all agree with, what do you do when the doctor doesn't provide what they need to, because we agree, we want this done right the first time, but we are worried that the doctor doesn't reply in a timely manner and they only have so many days to do it. We are trying to figure out how to get the doctor to reply more promptly. What would you suggest?

Mr. DE PLANQUE. Are you speaking of putting some kind of restriction or pressures on the private doctors? Because the plus side of the templates that they are working on developing for private physicians is that they are very explicit about the information that is needed. VA examinations, compensation pension examinations, are different than what a normal practicing physician might do to

treat a veteran, and therefore, they sometimes require different information.

And so from a template standpoint, it is specifically asking for the information, so you are not going to have an inadequate exam returned that they don't have the information they need. As far as the timeliness factor of how you can pressure private physicians to respond to them on time, if it is a private physician, that would be an issue between the veteran and their physician.

Mrs. HALVORSON. Thank you. Mr. Lamborn, do you have any questions?

Mr. LAMBORN. Thank you, Madam Chairman.

Just briefly. Dr. Blanck, can you tell us a little bit more about the Advisory Committee's work on the quality of life, and when can we expect the full extent of the findings to be made public?

Mr. BLANCK. We will have a report on that issue in our October full report. We are still in the throes of a lot of discussion. We are using the special compensation program as kind of a model, which takes the most severely injured servicemember, and even if because of whatever disability they have or whatever wound or injury they have, it only reaches a certain level of disability, they get additional compensation because of what that injury is. Bilateral amputations, for example, is one of the things. We think there is a place for this, but we think it will be relatively limited to those very severely injured. But anyway, that will be covered in our October report.

Mr. LAMBORN. Thank you. I yield back.

Mrs. HALVORSON. Thank you. Mr. Bilbray?

Mr. BILBRAY. Thank you, Madam Chair. I apologize for missing the first part of your testimony. I just had a death in the family, I am the executor of the will, and you know how that is. I think the oldest in the family should always do it.

One of the things that I see inherent to our challenges here is the response time. And in the private sector one of the things that they have been able to do in 20 years is to really use technology. And I know we keep bringing this up as if it is the silver bullet, but if I can remind you of the success that we see almost in every community—some people may not like it—of Sam Walton figuring out how to use data processing, bar coding, using smart technology to not only get a job done, but do it very cost effectively and build an empire—he built an empire basically off of knowing what inventory he had or didn't have, and knew where it was and how to manage it.

I see that in a lot of ways as being essential if we are actually going to keep our promise to our veterans. Where are they, who are they, what do they need? And if you see the parallel, if Sam Walton could tell us where, you know, a commodity—and I won't even say the commodity because somebody will say I am comparing this to a veteran—but could tell you where the toothbrush was anywhere in his empire, doggone it, we should be able to tell the veteran where they are in the process and we should know where they are in the process.

And so I think that in all fairness, we haven't been aggressive enough at looking at what do we need as tools to do the job that we are promising the veterans we will do down the line. And I

think there is a lot of this base technology that is not being done. And I have seen it again and again. And I will just say we have been working a decade, trying to work out medical records, electronic medical records, and it seems like people look at this in isolation. But the fact is that technology, just as much as Sam Walton could know that you bought a toothbrush in Cleveland, he knows that he has to get a new replacement toothbrush shipped at the moment the purchase was made. As soon as somebody swiped that bar code, that information was out there and everybody knew it.

The challenge that we have, Mr. Chairman, can we be as responsive to our veterans as Sam Walton was to his clientele? And that is—I would just ask you right there, that technology—let me just add into it. The bar code I see for our veterans is not just a number or a name; it may be biometrics, it may be that technology of going that far. But let me just open that up, just throw that one in the middle of the court, and in the spirit of the World Cup you can kick that ball around.

Mr. BLANCK. Well, I will take a shot at it first, if I may. I have been heavily involved in health IT. I was the Army Surgeon General, retired in 2000, and of course worked on those issues then, did it at a university, and now in this committee. And kudos to the VA for the work they have done, particularly in VHA, on their electronic medical record. I think it stands as a model in the integration that is going on with that of the military, gets at what you are trying to say. But the whole organization needs to have that automation put in place.

My little piece is on the Advisory Board for Disability Compensation, so we are looking at the rating schedule for disabilities. And I spoke of the need to revise, update, and all of that. And the whole point of all of that is not to keep up with everything, it is also to standardize. How do you standardize so that the private mission, the VA physician, the military physician, all use the same automated form for the disability evaluation? And that has been a specific recommendation of ours that I know the VA is taking seriously, the VBA specifically, and it needs to be linked in then with that military and VHA health record; all of this centered around not records, but around the veteran. And the bar coding, and whatever measures you use there, is part of what will allow all of that to happen in a very standardized and efficient way as information is transported, as opposed to the old medical records you carry around in a wagon because they are so voluminous.

Mr. BILBRAY. To give you an example, let's say we talked about this. You can imagine the fact that although when someone files a claim or thinks they qualify, we should be able to have the capability, just as much as Sam Walton, to be able to go back and say on this date he received this and this, bam, bam, bam, we know exactly who it is. We are not asking the veteran to go back and find his file, have somebody dig it up. It should be able to be retrieved and should be able to be reviewed very quickly.

I have seen the extraordinary difference that the Internal Revenue Service (IRS) has done by going to electronic filing, the effectiveness, the efficiency, the cost effectiveness, and how much more user-friendly it was than shoveling papers around. I yield back, Mr. Chairman.

Mr. HALL [presiding.] Thank you, Mr. Bilbray. Mrs. Halvorson? Mrs. HALVORSON. No.

Mr. HALL. Dr. Blanck, you mentioned in your remarks that the Secretary agreed with the Commission's recommendations, and in some areas differed. Can you remember, account for us, some of the various differences?

Mr. BLANCK. Well, some of the areas in which, it wasn't so much that he differed but had to have legal review, had to look at the practicality of the recommendations. I do have a copy of his response with me, which I would be pleased to share with you.

[The information was supplied to Mr. Hall and will be retained in the Committee files.]

Mr. HALL. Thank you. The Advisory Committee researched that a new rating schedule should address the inconsistencies in mental versus physical disabilities, and also differences in age in onset of the disabilities. How would this change assist the VA in assessing and processing TBI, military sexual trauma (MST), PTSD and other complex injury claims?

Mr. BLANCK. Well, the problem with the VA we all have is in both being able to adequately and accurately assess and measure the TBI or psychological disorder to begin with, and then to assess its effect, because it changes day to day on earnings over a lifetime in which the disability might be based. The VA is coming up with some very innovative ways of trying to do that, using biomarkers, for example, magnetic resonance imaging, or computed tomography scans of the brain, volume studies of the brain, that kind of thing, to try to measure that.

A lot of these things still have to be validated, but that is part of the process of putting this into place. I was able to attend a conference sponsored by the VBA on mental health, that whole area, but specifically looking at psychological injuries—PTSD, for example, post-traumatic stress disorder, and traumatic brain injury—where a lot of these injuries were discussed. I think progress was made, and the VA, I believe, has been very, very aggressive in trying to measure as best they can and come up with ways to accurately and reproducibly assess a veteran and come up with the disabilities.

Mr. HALL. Thank you, Doctor.

Ms. Scott, some stakeholders have suggested that veterans benefits administration claims processors have been over-relying on the appeals process as ways of catching and cleaning up their errors. What are your thoughts on this? Do you think that happens? Is that an accurate assessment?

Ms. SCOTT. I think that when it happens, at least according to most of the audits and the studies that have come out in the last couple of years, that to a great extent part of it is the way they measure the work product, work credits. And another is that they would rather pass along a difficult issue and let somebody else up the line worry about it.

And I also think that a great deal has to do with training. There doesn't seem to be, from the reports on training, that there is any kind of standardization. The academy should be the focal point of the training for the entire agency. It should be the one thing with a director of training agencywide so that you have centralized—

again, we emphasize vertical accountability for the training from the bottom up. That is why we recommended that you put—that they put training directors or coordinators in every regional office. That would provide a mechanism for ensuring that we don't have repeats of one office having one level of training and within that office the one-size-fits-all, so that some people are bored silly and the other ones simply aren't getting what they need.

Mr. HALL. I realize the treatment with the idea of a full-time trainer in each RO and regularly scheduled instruction and question-and-answer opportunities for all the employees at that RO—I mean, especially as new rules come down, as they did today, or new paper applications come out, as they did today.

Ms. SCOTT. Well, part of that is the medical issues with which we are now involved are so complex and they affect the quality of life to such an extent that evaluating these issues needs to have the kind of training that is basically what a paramedic gets. They need to know what those body systems are, how they work, and why they work the way they do. Because we are not just dealing with muscles and bones, we are dealing with complex issues; and having those training coordinators there that are themselves properly trained so that the error is not instructed and becomes cocooned in the agency is vitally important, which is why we said that.

Mr. BILBRAY. It sounds like another project for our medics.

Mr. HALL. That is good. We don't have enough of them to worry about.

Mr. Violante, if I may ask you, the American Legion and some other stakeholders suggest transferring the job of quality control assurance from within the VBA to an independent third party. It has been suggested such a move would ensure partiality and follow-up to ensure compliance. What is VBA's position on this proposal?

Mr. VIOLANTE. Well, we certainly believe in quality control, and we don't believe there is any. Whether it is internal or external, we don't have a position but it needs to be there at each step of the process.

In answer to your other question to Ms. Scott, I mean there is no incentive to do these cases right the first time. There is no accountability. And the incentive is to continue to put these cases out, whether they are right or wrong. And so the importance of quality review is essential to getting this done right the first time. And again, whether it is internal or external, we would just like to see some type of quality review at every step of the phase.

Mr. HALL. Thank you.

And Mr. de Planque, your testimony mentioned the Secretary's goal of transforming the VBA by 2015 to the point where the claims backlog can essentially be eliminated, and claims can be processed within 125 days at a 98 percent accuracy rate.

Do you think these are realistic goals, and what resources would be needed to help the Secretary achieve those goals if they can be had?

Mr. DE PLANQUE. In terms of whether or not they are realistic goals, that is a very, very difficult question. Is it achievable? America put a man on the Moon in a decade. If we are going to devote

the resources and set something out as a mission, there is nothing that we can't accomplish.

Now, whether or not those goals are possible, that is going to take—it is going to take a paradigm shift within VA. It is going to take a complete culture shift.

To mention the idea of passing along the errors, we talked to people in the regional offices, and we do education for our service officers on recent court decisions and how those affect VA adjudication of cases. And our service officers very often will take these court cases to the VA and say, But in this court case they found that this applies, and so you can apply it there. And they are told by VA employees in regional offices, "We don't deal with court cases, that is what the Board deals with."

Well, no, that is not what it deals with, it gets dealt with at the ground level. Now, VA's central offices put out the message that that is something that they want to change, but until that changes on the ground level they are not going to be able to achieve that level. And what they need to do is they need to transform the mind-set. And that is a top-down leadership and that is leadership all the way through. And whether or not they are saying that is the case, it needs to get through to the employees.

This was mentioned by people in the employees' union, regardless of what they are saying, what is the perception among the employees? What do they believe is where the pressure from their job is coming from? As long as the employees believe that moving the cases is the most important thing to them, then they are not going to work towards the accuracy. When the employees believe that the accuracy is equally important, then they will be working on that and they can achieve a goal where they are at 98 percent accuracy and where they are getting the cases done on time. But that takes a culture shift and that takes deep-rooted traditions to be shifted.

Mr. BILBRAY. Mr. Chairman.

Mr. HALL. Mr. Bilbray.

Mr. BILBRAY. There was a statement just made, and I think we really need to jump on this, is the perception by any Federal employee; but the perception that the court's rulings don't determine how we operate, is that the way? We are basically saying we are not—that isn't going to determine our procedure. If the courts rule this way, we don't—

Mr. DE PLANQUE. Well, and that is, to be clear, that is the kind of reaction that you can get from an employee. It is not what VA is directing from their central office. They are not telling people the courts don't matter, but that is the reality of a day-to-day interaction in many cases.

Mr. BILBRAY. I think our attitude ought to be if the President and the Congress have to live by these court rulings, doggone it, all of us in government, even the Executive Branch, have to recognize this is part of the separation of powers. And it just concerns me if that is an attitude of our Federal employees, of any Federal employee, that what the courts rule doesn't—you know, I am not going to recognize or I am not going to let it affect my operations. I think maybe there is a measure of concern here we have that people think they are above the law, because that is what the courts

are; they are defining what the law is, and I think it is a serious concern.

Mr. HALL. Thank you, Mr. Bilbray. You are absolutely correct. And Mr. de Planque, thank you for bringing it up and voicing that observation, because we will make a note to ask the undersecretary about it when we get to our third panel.

We just had a series of three votes called and, I am sorry, we always seem to get interrupted like this. But I want to thank the members of this panel for their testimony, and if we have any further questions we will send them to you in writing.

And I will now excuse you for the rest of the day, ask for patience on the part of Panels 2 and 3. We will be back as quickly as we can from this series of votes, and the Subcommittee stands in recess.

[Recess.]

Mr. HALL. The Subcommittee will return to order.

I would now ask our second panel of speakers to join us at the witness table, including Richard Paul Cohen, Executive Director of the National Organization for Veterans' Advocates (NOVA); Molly M. Ames, Rating Veterans Service Representative (RVSR), San Diego, California, Office 377, on behalf of the American Federation of Government Employees (AFGE); and Paul Sullivan, Executive Director for Veterans for Common Sense (VCS).

Welcome.

Mr. Sullivan will be with us shortly.

Mr. Cohen, you are recognized. And, of course, your full statement has been entered into the record, so feel free to give a 5-minute summary.

STATEMENTS OF RICHARD PAUL COHEN, EXECUTIVE DIRECTOR, NATIONAL ORGANIZATION OF VETERANS' ADVOCATES, INC.; MOLLY M. AMES, RATING VETERANS SERVICE REPRESENTATIVE, VETERANS BENEFITS ADMINISTRATION REGIONAL OFFICE, SAN DIEGO, CA, ON BEHALF OF AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, AND AFGE VETERANS AFFAIRS COUNCIL; AND PAUL SULLIVAN, EXECUTIVE DIRECTOR, VETERANS FOR COMMON SENSE

STATEMENT OF RICHARD PAUL COHEN

Mr. COHEN. Thank you, Chairman Hall, and thank you to the Subcommittee for the opportunity for the National Organization of Veterans' Advocates to participate in this hearing.

We have testified previously, on many occasions, about all the problems that the Veterans Benefits Administration has in adjudicating claims, all of which have been previously stated by this Committee and by the participants here.

The biggest problem, however, has always been the culture of the VA and the perception among veterans and among those who work in the VA that the primary responsibility of the VA is to rout out fraudulent claims, move claims along, and generally to not be veteran-friendly, even though the Secretary of the VA, Secretary Shinseki, has for almost 6 months been going around the country talking about not only pilot projects but his vision for changing the culture of the VA.

And we were very optimistic after hearing about the pilot projects and about the attempt to change the culture. But, very recently, we became aware of a memo and proposed legislation sent out by the Secretary on May 26, 2010. I hold it in my hand here.

When you read through this proposal, and if you are someone who works in the veterans adjudication system, it is very apparent that the VA has now concluded that it cannot effectively decide the vast number of appeals that are out there. So the VA has decided to take itself out of the appellate system.

And the way VA proposes to do this at the front end, it is to cut in half—or it wishes to have legislation to cut in half the time for a veteran to appeal—cut it from a year to 6 months, even though the VA knows we are dealing with veterans now who have traumatic brain injury and PTSD who can't comply with time limits. They want to cut that time limit.

They want to, for the first time, make the time to appeal to the Board of Veterans' Appeals jurisdictional. It has never been jurisdictional. It has always been subject to equitable tolling where a veteran misses the time limit. The VA says, this is not a problem because claims are simple. They say this in the request for legislation. Yet, when the VA complains about its inability to get it right the first time, the VA says claims are so complex.

At the same time that the VA says that appeals are so simple that it will not hurt veterans to cut the appeal time and make the time to file jurisdictional, what they are attempting to do in this legislation is to make the appeal process more restrictive. They want to require a specific type of appeal to the VBA, a certain type of form, and, when it is not complied with, they want the appeal to be dismissed.

At the back end of the appeals, the VA has realized that it is having trouble making good decisions. We know this because, of the decisions that the court makes, 70 percent of the merits decisions conclude that the BVA's decision was not substantially justified, which results in a court award of Equal Access to Justice Act (EAJA) fees at 70 percent of the merits decisions conclude that the BVA's decision was not substantially justified, which results in a court award of EAJA fees.

The VA says, "That has cost us \$13 million. We need to do something about that." What the VA proposes is to change the rules for EAJA fees only with respect to veterans second-class citizens when compared with other groups of people who can get EAJA fees under title 38. The VA wants to make veterans different and say that a veteran can only get EAJA fees if he wins in the court.

The other trouble is that the VA has been making decisions, which are supported by adequate reasons and bases so the VA wants eliminated the requirement of giving adequate reasons and bases to be. Then it would be sufficient if a decision has adequate justifications.

The bottom line here is that we need Congress to hold the VA's feet to the fire and require them to be engaged in the administration of claims, and in the appeals process. This type of legislation, which is proposed by the VA, sends the wrong message to veterans and to those people who represent them. It is just wrong for the

VA to abdicate and to essentially say that the VA is no longer going to be involved in doing appeals.

And that is why NOVA does not feel optimistic about the pilot projects that are recommended by the VA. Because, unless the culture changes, unless the VA truly says they want to partner with veterans and their representatives and do it right the first time, then this whole thing is just an exercise in talking and will not accomplish anything.

This type of legislation shows the true intent of the VA—namely, to cook the books and make it look like they are doing the right thing, instead of doing the right thing for veterans.

Thank you. I am willing to answer any questions you have.

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

Mr. HALL. Thank you, Mr. Cohen.

Ms. Ames, you are now recognized.

STATEMENT OF MOLLY M. AMES

Ms. AMES. Chairman Hall, Members of the Subcommittee, thank you for the opportunity to testify today on behalf of the American Federation of Government Employees and our VA Council. I started in the San Diego Regional Office 13 years ago as a claims assistant, worked up to the Veterans Service Representative (VSR) position, and, since 2008, I have worked as a Rating Specialist on the appeals team.

I am a disabled American veteran. I served 11 years in the Navy. And I take to heart what we are told every day in VBA: that it is not a claim, it is a veteran. Therefore, it is very frustrating for me to watch VBA go from one quick fix to another without listening to the employees who are processing the claims.

I strongly believe that once all the new hires get another 2 years of training and experience, that we will see a significant reduction in the backlog. I have a number of suggestions to ensure that VBA makes the most of its expanded workforce to improve both productivity and accuracy.

First and foremost, we have to fix our production standards. Our members are panicking over the new VSR standards. It is like trying to match apples with oranges. Under the new VSR standards, VSRs have to make their points even though they get no credit for any follow-up work. At the same time, the VSRs have to meet new timeliness standards, and they also have to run the workload management reports to show which cases are due for action, a very time-consuming task that management used to perform.

To give you some perspective, one of the VSRs on my team now has to track 250 to 300 cases at one time for timeliness. If she misses three cases in a month, she will fail her standard and get put on a performance improvement plan, risking demotion or termination down the road.

I am worried about the new RVSR performance standards that are in development. I already have to complete many tasks without credit. For example, I get no credit for writing medical opinions or for reviewing files that are not ready to rate, that have to be returned to the VSR. Right now, I use every minute of my work day to meet my 3.5 standard. I simply won't be able to manage if the

new RVSR standards take away credit for even more of the functions I perform on a daily basis.

Speaking of unrealistic standards, it is arbitrary and unfair to require employees working from home to produce more work than their colleagues based at the RO. In our office, only RVSRs are allowed to work from home, but at a very heavy cost. They have to complete 4.5 points a day, as compared to 3.5 in-house. This makes no sense. I thought the Federal Government was promoting, not discouraging, flexiplace. I can tell you personally that I have always exceeded my current production standards, yet there is no way I would work from home under these higher standards.

Isn't flexiplace the perfect solution to the space shortage at many ROs? Every seat in the San Diego Regional Office right now is full. We don't have space for employee training or testing of veterans for vocational rehabilitation. With all the new hires, veterans coming to our RO can't even find parking spaces. I hope the VA will reconsider its position on the RO flexiplace standards, just like they did for the Board of Veterans' Appeals 2 years ago.

I am also very concerned about the training being given to new employees. When I became a VSR, it was standard practice to rotate employees to all different teams. Now, new employees at many ROs are rarely rotated. None of the temporary hires went to centralized training, and most of them were assigned to the education project for a year. Once they return to Compensation and Pension as permanent employees, they will need additional training to be able to adjudicate disability claims.

Many of the coaches that run the teams also lack experience and subject-matter expertise. As a result, the work of new employees on many of these teams is being supervised by coaches with less than 3 years of experience.

I would like to close by talking about the pilot projects and innovative initiatives. I have real concerns about the 3-I's pilot in my office. Cases with three or fewer issues are being diverted to a special team to be rated, which means that the rest of the RVSRs have to maintain the same production as before, with more intense mixes of cases, all of which have at least four issues.

I think the SMC calculator innovative initiative was very positive. It has really helped rating specialists to calculate special multi-compensation cases, which are very difficult.

And although I don't have direct experience with the pod pilot, I believe it will help. On the appeals team that I work on, we have always worked as a pod, where claims assistants, VSRs, RVSRs, and ROs work closely together on a daily basis and quickly communicate the needs of the claim to each other.

Thank you. I would be happy to answer any questions you have. [The prepared statement of Ms. Ames appears on p. 59.]

Mr. HALL. Thank you.

Mr. Sullivan.

STATEMENT OF PAUL SULLIVAN

Mr. SULLIVAN. Thank you, Chairman Hall, Ranking Member Lamborn, and Members of the Subcommittee, for inviting Veterans for Common Sense to present our comments about the state of the Veterans Benefits Administration.

With me today is Thomas Bandzul, our Associate Counsel. And also with me is my daughter Erin from high school, learning about how government works.

Overall, Veterans for Common Sense describes the current status of VBA as “mired in crisis.” However, there are rays of hope on the horizon. I would like to add that we concur with the comments from NOVA. And I am disappointed to learn about some of the things that AFGE is raising, and I hope they will be followed up on.

VBA’s two major crises are worsening. The first crisis is the unacceptably high rate of claims processing decision errors, about 25 percent. We presented this chart to the Subcommittee staff, Mr. Chairman, and it is our review of eight recent VA Inspector General reports. And summarized, it came out to a 28 percent error rate. We were concerned that, in some offices, there were high error rates on some subjects and low error rates in others, and in a different office it would be reversed.

The second crisis is the unreasonably long delays in processing new claims, now about 5 months. The two current wars have made the situation even worse.

In August 2003, the *Wall Street Journal* reported on this, and they warned about the plight of Iraq and Afghanistan war veterans by highlighting veteran Jason Stiffler. According to the 2003 news article, the long-term estimate of Iraq and Afghanistan veterans’ claims was only about 50,000. The reality is devastating. VBA has received 500,000 claims from Iraq and Afghanistan war veterans. Veterans for Common Sense estimates another 500,000 new claims from these veterans in the next 5 years.

Progress in reforming VBA begins by listening carefully and acting upon suggestions made by Congress, veterans, advocates, and staff. VBA is starting to do that, and we applaud that, yet much more needs to be done.

I want to put this in perspective. Fixing VBA is often vital so our veterans can obtain health care benefits. Except for Iraq and Afghanistan, veterans who receive 5 years of free health care after discharge, an approved VBA claim is usually required before a veteran receives medical care.

VBA’s two crises remain in critical condition, we believe, because VBA remains leaderless. VBA has no permanent Under Secretary and no permanent Deputy Under Secretary. This is unacceptable for our veterans and VBA’s hardworking staff. During a time of crisis, leadership and vision are essential to chart a responsible course and to be held accountable for meeting the agency’s objectives. VCS urges VA Secretary Shinseki to fill VBA’s vacant positions as quickly as possible with qualified veteran advocates who will continue his efforts to transform VBA.

We strongly encourage VBA’s soon-to-be-selected leaders to bring on board a team of dozens of subject-matter experts focused on two strategic goals. The first goal of the new VBA leaders should be to improve both the quality and timeliness of current claim decisions. The pilot programs are a good start. The second goal should be to develop and implement a long-range plan to overhaul VBA’s information technology, training, regulations, and leadership, because,

as Dr. Levin at VA said, the VBA's current system is unsustainable. I am paraphrasing his comment.

VCS also wants Congress to review VBA's efforts to improve processing goals for veterans claims and to publish final PTSD claim processing regulations.

A bright ray of hope on the horizon comes from Secretary Shinseki's promise to fix VA this year. The ray brightened when VA's Peter Levin confirmed VBA is broken and in need of urgent repair. Hope increased further when VA received approval for a six-page claim form. Congress is also pushing in the right direction to reform VBA.

From our point of view, veterans will know VBA is improving when VBA has new leaders, VA's error rate is reduced, when claims are processed faster and more fairly, when Gulf War rules are improved, and when final PTSD regulations are published.

In order to reach the long-term goal and transform VBA for the 21st Century, VCS asks Congress to pass a new law mandating the creation of an entirely new VBA system from the ground up. This would fulfill promises made to veterans by Shinseki and Levin. Any new law must set tough requirements for quality and timely decisions so our veterans don't wait for health care and benefits.

Thank you. And I will be glad to answer any of your questions. [The prepared statement of Mr. Sullivan appears on p. 62.]

Mr. HALL. Thank you, Mr. Sullivan.

I would start by asking Mr. Sullivan and our other panelists also for their comments, if you care to offer your comments, on the announcement of the shortened form. We did not get the one-page that you were asking for, but we got it down to 10 pages, you know, from 23 pages to 10 pages, and then the EZ form for those veterans who believe they have the full documentation of their claim and don't need further development.

Can you comment on that?

Mr. SULLIVAN. Mr. Chairman, Veterans for Common Sense is very pleased that VA is listening to Congress and the legislation you all pushed through and the concerns of veterans groups for a shorter claim form. This is very good news.

And it is especially good news for veterans with traumatic brain injury, other mental impairment, psychological problems, who often abandon a claim when they are presented with the longer form. I have seen it myself in person at VA facilities, and it is very disappointing to see veterans walk away when they are handed the stack of paper.

I hope that this small step will send a message to veterans, VA staff, and the public that VA is listening and they are doing the right thing.

Mr. HALL. Ms. Ames?

Ms. AMES. It looks like a wonderful idea.

Mr. HALL. Mr. Cohen?

Mr. COHEN. Well, the problem I have in answering the question is, of course, lawyers are excluded from the initial part of the claim filing. Veterans are not permitted to hire lawyers until they file their first appeal.

But NOVA has consistently compared the claim form that veterans are required to file in the VA with the claim form that most

injured workers file in their States for workers' compensation benefits. The workers' compensation form is a one-page form, which has a provision at the bottom for a treating doctor to say the condition is related to work.

VA hasn't gotten to that point, but presumably this would be the first step, what they have done now is the first step in a process to get a form where the treating doctor can just say, "I have diagnosed the condition. It is connected to service. Let's go on to the extent of disability."

Mr. HALL. Thank you.

Mr. Cohen, you suggest several points of decentralization of the VA and overhaul of its procedure for processing claims, a more user-friendly system, addressing the labor intensity of the current assembly-line approach.

Can you weigh for us the balance of your concern with the convenience of the system and the efficiency of the process?

Mr. COHEN. Well, it seems that the convenience and efficiency are tied together. Because if veterans would have a system where they could go into a local VA office to file their claim and actually speak to someone face-to-face and be interviewed in a meaningful interview, the claim process would start more efficiently, and the material that is gathered would be more efficient and more effective, and probably the decision making would be better.

This, I understand, is one of the things that is being attempted in the pilot in Pittsburgh, to actually sit across the table from a veteran and get the information face-to-face. If it is done properly, the end product would necessarily have to be better.

Mr. HALL. Thank you.

And, Ms. Ames, you mentioned in your testimony the unwillingness of the VBA to proceed with regional and local labor management forums mandated by the White House Executive Order on labor management relationships.

Please, could you explain to us the details of this Executive Order and how the VBA has failed to execute it.

Ms. AMES. AFGЕ will have to get back with you.

[The AFGЕ subsequently provided the following:]

**AFGE RESPONSE TO POST-HEARING REQUEST BY
CHAIRMAN HALL FOR ADDITIONAL INFORMATION ABOUT VBA'S
PROGRESS IN IMPLEMENTING E.O. 13522**

Thank you for the opportunity to elaborate on Executive Order (E.O.) 13522 to implement Labor-Management Forums, and our concerns about VBA's lack of progress in implementing forums.

I. What E.O. 13522 Requires:

The goal of E.O. 13522, issued by President Obama on December 9, 2009, is to "establish a cooperative and productive form of labor-management relations throughout the executive branch". The nonadversarial forums established by the E.O. are designed to improve labor relations, productivity and effectiveness of the Federal Government. More specifically:

- **Predecisional Involvement:** These forums, to be established at the national, regional and local levels, are the vehicles for "predecisional involvement" (PDI), i.e. management and labor are supposed to jointly develop solutions to workplace problems rather than management advising the union of predetermined solutions and then bargaining over the impact and implementation of these solutions.
- **Pilot Projects for Bargaining over Permissive Subjects:** The E.O. requires that some pilot projects be established in executive departments

or agencies to evaluate the impact of bargaining over permissive subjects set forth in 5 USC 7106(b) (1), i.e. numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty or the technology, methods and means of performing work.

II. Status of VBA's efforts to implement E.O. 13522:

Overall, VBA is making progress toward implementing the E.O., including an agency-sponsored joint labor-management training program and the pilot project discussed below. However as also noted below, progress among different ROs is inconsistent. (We note that VBA is making significantly more progress than the Veterans Health Administration on implementation of the E.O.)

- **Predecisional Involvement:** Even in those ROs where forums are in place, most managers are merely “going through the motions,” and are not making a meaningful effort to involve the union early to jointly develop solutions to agency problems. For example:
 - Our members in Winston-Salem, NC report that the labor-management forum being established at their RO will lack decision making authority and its only role will be to provide recommendations to the Director. At the same time, management continues to stonewall any real progress toward predecisional involvement. Instead of jointly collaborating on needed changes, management claims that providing information about their intentions constitutes predecisional involvement.
 - Similarly, members from the Reno, NV RO report a virtual failure on management's part to recognize the essence of predecisional involvement. Rather, to their Director, predecisional involvement “seems to mean that he wants something, he mentions it to the AFGE president and then he goes forward.” Management at this RO is not sharing information or offering to discuss issues jointly, leaving no opportunity for joint problem solving.
 - Members from the Little Rock RO have had a more positive experience to date. They report that the basic Forum was established pursuant to E.O. 13522 and is meeting on issues that involve all employees. Labor and management are working together to discuss all pros and cons of the issues that come before them, and they are making joint recommendations to the RO director. If there are questions, the Director addresses those issues directly with the Forum for clarification. In the event issues arise to involve specific divisions, i.e. Support Services and Vocational Rehabilitation, union members serve as subject matter experts and participate in the basic Forum until the problem is resolved.
- **Pilot on (b) (1) bargaining on permissive subjects:** We are pleased to report that VBA has agreed to implement a pilot project to address the means, methods, and technology used for certification of skill level by VR&E Counselors and Counseling Psychologists. Several of our members will be participating in a planning group to design this pilot. This effort is in the very early stages. We will keep you apprised of the status of this (b) (1) pilot.

Please contact AFGE National VA Council Lobbyist Marilyn Park at (202) 639-6456 if you have any additional questions. Thank you.

Mr. HALL. You briefly touched upon the telework policies—“flexiplace” you called it—across regional offices. Could you please elaborate on your point about how the policies are discriminatory?

How do you think the decision was reached? What is the logic, in your opinion, behind requiring a higher productivity number if you work from home? And who exactly is hindered by this?

Ms. AMES. The report that I read said that they came up with it because you have less distractions if you are working from home so that you should be able to produce more.

Mr. HALL. They must have a different kind of home than I do.

Ms. AMES. I am thinking the same thing.

From 3.5, the points that I have to make now, to 4.5, that is making me produce at least five one- to seven-issue claims a day. That is a lot. Just for working from home.

When working from home, you know, it alleviates a lot of the problems that we have. Our office is packed. There are no seats available, we have hired so many employees. The parking situation—just, you know, to keep people—at this point, people retire because they just get tired of being there. And if you would give them the option of working from home, you know, that might keep more of the people that have been there for a while that have the knowledge just to stay.

Mr. HALL. Thank you.

Mr. Sullivan, VCS points to the tidal wave of compensation claims, which is estimated to reach over 1 million, by some estimates is already over a million, counting appeals, as a significant challenge that further burdens the VBA's system, including new claims for Agent Orange (AO) and other herbicides used during the Vietnam War.

Based on VBA's initiatives to address the backlog, do you believe that it could be on track to reach the 2015 goal in light of this increase in claims? Or do we need to take some further radical action to get there?

Mr. SULLIVAN. Mr. Chairman, we want VBA to make the goal. But, at this time, I don't think the pilots and the scalability of the pilots are there for VBA to make that goal.

We want to see them do it. We truly do. We want to work with them to make sure that they can fix this soon. But right now the pilot projects are just those, Mr. Chairman. They are one office. And we are not sure, because we don't have all the information available to us—and we would like it—to be able to say that VBA can quickly increase the size of the pilot programs so that they could be nationwide immediately.

At this point, it looks like, as Mr. Cohen said, lots of action and we have been here before, but where is the progress? And I want to say that they can do it, but I just don't see it there yet, Mr. Chairman.

Mr. HALL. And maybe you could answer, and Ms. Ames and Mr. Cohen also, just leave us with one—if you had to pick one recommendation for what VA should be doing for handling the claims processing, what would your top pick be?

Ms. AMES. The performance standards, if they were fixed we would be able to more accurately count the amount of work that is done and get people so that they are not trying to make an unrealistic goal, and make it realistic and count the work that they are actually doing so that they can process claims and process them in a timely manner, process the oldest claims and if you are just asking for a number to be produced, people are going to make that number, no matter if they are using the oldest claims or the newest claims. And you want it to where they work all the claims in the order they come in. And I think if you had a more realistic work performance standard, that would happen.

Mr. HALL. Mr. Cohen?

Mr. COHEN. What is required is a paradigm shift. Instead of looking at the present culture and the present way that the VA looks at veterans, the VA needs to adopt the standard that is used in the criminal justice system. That is, there should be a presumption of entitlement.

VA should regard a veteran with benevolence which is at least equal to that provided by the criminal justice system to an accused. VA should say, "This person has filed a claim. This is a veteran." There should be a presumption that the veteran is entitled to the benefits, absent clear and convincing evidence to the contrary.

That would move a vast number of claims that are being delayed by an inappropriate standard, the standard of the burden of proof being on the veteran to prove by a preponderance of evidence that the veteran is entitled to the benefits. A presumption of entitlement would change everything.

Mr. HALL. Thank you.

Mr. Sullivan.

Mr. SULLIVAN. Mr. Chairman, if there was to be one priority, it would be forming a task force at the Secretary and Under Secretary level at VA to build a new VBA from the ground up.

While all these pilot projects are going on, someone needs to set aside a team—veterans experts, VA experts, Congressional staff, private-sector experts, and, yes, some veterans—sit them in a room, and let's build a system that puts quality and veterans issues first. And I think we can do that at the same time while we are trying to repair the existing system so it can at least function.

But the current system is unsustainable in the long term. And there are some very bright, hardworking new leaders at VA and VBA, and there is VBA staff here that would jump at the opportunity to do that. I say Congress should give them the room to build the system that they want that will do the right thing.

Mr. HALL. Thank you, Mr. Sullivan and Ms. Ames and Mr. Cohen. Thank you for your service to our Nation and its veterans, and thanks for your patience while we were voting across the street.

And this second panel is now excused. If we have any further questions, we will send them in writing to you.

And we will now ask our third panel to join us: Michael Walcoff, Acting Under Secretary for Benefits, VBA, U.S. Department of Veterans Affairs; accompanied by Tom Pamperin, Associate Deputy Under Secretary for Policy and Programs; Diana Rubens, Associate Deputy Under Secretary for Field Operations; Mark A. Bologna, Director, Veterans Benefit Management System; and Peter L. Levin, Senior Advisor to the Secretary and Chief Technology Officer (CTO).

Thank you so much for joining us. And your written statement is in the record.

If you would bear with me for a moment, we will recess the Subcommittee for about 1 minute while I recognize the incoming Superintendent of West Point.

[Recess.]

Mr. HALL. The Subcommittee will come back to order.

Secretary Walcoff, welcome. And you are now recognized for as much time as you need, sir.

STATEMENT OF MICHAEL WALCOFF, ACTING UNDER SECRETARY FOR BENEFITS, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY TOM PAMPERIN, ASSOCIATE DEPUTY UNDER SECRETARY FOR POLICY AND PROGRAM MANAGEMENT, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; DIANA M. RUBENS, ASSOCIATE DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; MARK A. BOLOGNA, DIRECTOR, VETERANS BENEFITS MANAGEMENT SYSTEM, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; AND PETER L. LEVIN, SENIOR ADVISOR TO THE SECRETARY AND CHIEF TECHNOLOGY OFFICER, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. WALCOFF. Thank you, sir.

Chairman Hall, thank you for the opportunity to appear before you today to discuss the Department of Veterans Affairs disability compensation and pension programs.

Accompanying me today are Diana Rubens, Associate Deputy Under Secretary for Field Operations; Tom Pamperin, Associate Deputy Under Secretary for Policy and Program Management; Mark Bologna, Director of the Veterans Benefits Management System Initiative; and Dr. Peter Levin, Senior Advisor to the Secretary and Chief Technology Officer.

I want to point out that, to express VA's commitment to the "One VA" effort to meet Secretary Shinseki's goals, we also have with us Philip Matkovsky, Deputy Chief Business Officer of the VHA; Martha Orr, who is the Executive Director of Quality Performance and Oversight in the Office of Information and Technology; and Donnie Hachey, who is the Chief Counsel for Operations at the Board of Veterans' Appeals.

My testimony today will focus on the Secretary's goals to eliminate the claims backlog by 2015 with a 98 percent quality rate so as to ensure timely and accurate delivery of benefits and services to our veterans and their families.

The entire VA leadership fully shares the concerns of the Subcommittee, Congress as a whole, the veterans service organizations, the larger veteran community, and the American public regarding the timeliness and accuracy of disability benefit claims processing. As you know, Secretary Shinseki set the critical goals of eliminating the disability claims backlog by 2015 so that no veteran has to wait more than 125 days for a quality decision.

We are attacking the backlog through a focused, multi-pronged approach. At its core, our approach relies on a changing culture, re-engineering current business processes, and developing our infrastructure with technology that supports a paperless claims environment.

Our aggressive efforts are at the heart of our requirements for a large increase in our 2011 budget request for VBA. We greatly appreciate this Subcommittee's consideration and support of our fiscal year 2011 budget request as we continue this important work for our veterans.

We understand the frustration of many veterans with the time it takes to reach a decision on their disability claims. Throughout VBA, we have rededicated ourselves to the mission of being veterans' advocates. This is a commitment which flows from the Secretary down to the VBA leadership and to our dedicated employees in the field.

Before going further, let me provide you with an update on the current disability claims workload. Our pending claims inventory is rising due to the unprecedented volume of disability claims being filed. VBA experienced a 14.1 percent increase in annual claims received in 2009, while we project an increase of 13.1 percent and 11.3 percent in 2010 and 2011, respectively.

This substantial growth is driven by a number of factors, including our successful outreach efforts, improved access to benefits, and the impact of a difficult economy. As a result, we now average over 97,000 new disability claims added to the inventory each month, and we project to receive nearly 1.2 million disability claims this year.

The projections I just mentioned do not take into account approximately 200,000 additional claims based on Secretary Shinseki's decision to establish presumptions for service connection for veterans exposed in service to certain herbicides, including Agent Orange, for three particular illnesses based on the latest evidence presented by the Institute of Medicine of an association between those illnesses and exposure to herbicides.

We have a plan to re-adjudicate these decisions, as required under the court order in the U.S. District Court for the Northern District of California, case of *Nehmer v. U.S. Department of Veterans Affairs*.

VA is also soliciting private-sector input to design and develop an automated system for faster processing of new Agent Orange presumptive claims. We already have over 40,000 new claims and are receiving about 8,000 more per month.

The need to better serve our veterans requires bold and comprehensive business changes to transform VBA into a high-performing 21st-Century organization that provides the best services available to our Nation's veterans and their families.

VA's transformation strategy for the claims process leverages the power of 21st-Century technologies applied to redesigned business processes. We are examining our current processes to be more streamlined and veteran-focused. We are also applying technology improvements to the new streamlined processes so that the overall service we provide is more efficient, timely, and accurate.

We are harvesting the knowledge, energy, and expertise of our employees, VSOs, and the private and public sectors to bring to bear ideas to accomplish this claims process transformation. Our end goal is a smart, paperless, IT-driven system which empowers our VA employees and engages our veterans.

While we work to develop this system, we are making immediate changes to improve our business process and simultaneously incorporating the best of those changes into our larger effort, our signature program, the Veterans Benefits Management System, VBMS. I will not go into details here, but I have outlined a specific plan

in my written testimony of the many different improvement initiatives that are going on here at the VA.

VA is also working closely with our stakeholders. We recently partnered with the U.S. Department of Defense (DoD) to create the eBenefits portal. The portal provides servicemembers, veterans, families, and care providers with a secure, single-sign-on process to online benefits information and related services, such as military personal records and the status of VA claims.

Additionally, VA continues to meet with stakeholder groups to improve communication and to promote innovation, and has recently met separately with veterans service organizations, the American Federation of Government Employees, and various out-of-the-box thinkers to partner on ideas to meet Secretary Shinseki's challenge to eliminate the backlog and increase quality. We will continue to examine every new idea from our employees and stakeholders that may assist us in our mission.

Secretary Shinseki's goal is to transform VA into an organization that is veterans-centric, results-driven, and forward-looking. At the same time, VA must deliver first-rate, timely health care benefits and other services to our Nation's veterans, families, and survivors. We are looking forward to working with Congress, VSOs, and other partners to meet our critical goals and the needs of the 21st-Century veterans and their families.

Mr. Chairman, this concludes my testimony. I would be happy to respond to any questions that you may have.

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

Mr. HALL. Thank you, Mr. Walcott.

So, how would you feel about having a taskforce to rebuild the VBA from the top down or bottom up, either way, and still processing all of those claims at the same time?

Mr. WALCOTT. Mr. Chairman, I believe that if you look at what we are doing under Secretary Shinseki's leadership, I believe it really is building a new VBA.

It starts with the culture. There were a lot of things that I didn't agree with that were said on the previous panels, but that was one thing that I have some agreement with. I think we have to look at the culture of the organization and we have to start there. And a lot of the initiatives that we have in place right now are really aimed at changing the culture of our organization so that we are always veteran advocates.

An example of that is our phone development initiative where, instead of just sending a veteran a letter and hoping that he understands it, we are following it up with a phone call where we can talk to him, go over the letter, and discuss with him what he needs to do to pursue his claim, and then offer any assistance that we can to help him with that claim.

The advantage of that is that the veteran can begin immediately to put together whatever evidence he needs to process the claim or he can say to us, "I don't have any more evidence," in which case we can waive the VCAA days that are required and immediately decide the claim. So I think that is an example of trying to change the culture of the organization.

The second thing we are trying to do is change our business process, which is, to me, building a different organization, changing the

way we actually process claims. It is very, very important that we do that as we go into, you know, some of the new technology that is going to be coming.

There are many examples of how we are changing the actual process, and I will mention just one as an example. And I think this is one that you are familiar with. And that is that we are looking for claims that we can begin paying an interim payment while we are processing claims. That is something that I know we have had conversations about. And we have piloted that in our St. Petersburg office, and we believe that is something that we are going to be able to expand nationwide. That is changing our business process, and that is the kind of thing that we are doing under Secretary Shinseki's leadership.

And then let me just finish with the technology, because I think that is what is going to make the biggest difference in our organization. We have talked a lot about it; the other panels have talked about it. But, to me, when you put culture, business process together with technology, you have a changed organization.

Mr. HALL. Thank you.

I know Mr. Bilbray wanted to ask you and he wanted me to ask you his question, which I think had to do with the court's decisions being either followed or adhered to or not by VBA staff at various levels.

Mr. WALCOFF. Yes, and I appreciate the opportunity to comment on that.

The representative from the American Legion had pointed out that, in their visits to our offices, they often find that there are court decisions that our employees at the actual working level are not aware of and, therefore, have not implemented. And I will say that that is an ongoing challenge, to, as decisions are made, to get that information out from our headquarters to our 57 offices, through all the layers that we have.

But Congressman Bilbray made the jump that our employees were intentionally not carrying out court orders. And I wanted to very vehemently deny that that happens. Our employees know that they are required to follow court decisions, and they do not put themselves above the law, and do follow them. We have to make sure that they are aware of those court decisions, but that is on management to get that information through. Our employees follow court decisions.

Mr. HALL. Thank you.

And could you quickly address the question that Ms. Ames raised about working from home, people having different work productivity standards?

Mr. WALCOFF. Sure. And we have had a lot of discussion about that. And we actually have a good number of employees, mostly rating specialists, who work at home. I don't remember the exact number, but I believe it is over 200 that actually work at home.

And when they do work at home, they do have an additional case required in their performance standard. She was right about that. Now, the question is, why is that?

Well, first of all, we believe that our organization works better best when we have our employees, our rating specialists and our VSRs who are responsible for developing the evidence, talking with

each other and working together so that the VSR who is developing a claim can be communicating with the rating specialist to say, "Is this what I need? Do I need to be getting anything else? Is this sufficient?" That type of thing. So that on-site communication is extremely important. We lose that when the rating specialist is not in the office and working at home. So there is a real negative, in that sense. And I believe that is a significant negative.

The other side of it is that, when they are at the office, there are disturbances. I mean, there is mentoring that has to be done by rating specialists. There are the interruptions that come from a VSR asking questions about—you know, the same questions that I just talked about. That interrupts the day of the rating specialists, making it more difficult to produce a certain number of cases.

So our feeling is that, when the rating specialist is working at home, they don't have those disruptions. And I know that people say, "Well, you haven't been to my house," but the truth is, if they are working at home, they shouldn't be working where there is a lot of noise and disturbance, because that is going to affect their ability to concentrate on the claim.

So, assuming they are in a situation where they don't have those disturbances, and also considering the fact that we lose something by not having them in the office with that communication with the rating specialist, we believe the offset is to ask for that additional case. And we have many, many employees working at home who are meeting that standard.

Mr. HALL. Some of that standard is intended to incentivize them to come into the office and work from the office rather than working from home?

Mr. WALCOFF. Well, I wouldn't say "incentivize" it that way. I think that we recognize that there is some value to having the program. The fact is that she was right, we do have real space issues as we have been hiring all the people that we have hired.

But what we find is that we have a lot of employees who are willing to work at home and willing to take on the responsibility of the extra case because they feel that, when they are there undisturbed, they can easily produce that extra case.

Mr. HALL. I worked from home this Friday, and I know that the guy will probably come to clean the gutters while I am there, the dogs will need to be let in and out, you know, various things will happen, but then I will try to get my work done.

Mrs. Halvorson.

Mrs. HALVORSON. Thank you, Mr. Chairman.

Thank you, all of you, for being here today.

You know, I have been saying this since the day I was sworn in, since the day I came to the Veterans' Committee, that, you know, one size does not fit all. These are our heroes. These are people that have served our country. We have to start treating our heroes like people, not as numbers.

And, you know, with some of the changes that I hear today, I feel a little better. And I really believe that we have to do a better job of reaching out to them and not sending out legalese that they can't understand, and then they have a letter that sits there because somehow they think maybe it is going to be easier to under-

stand on the last day that they have to get you their information and it doesn't.

Many of my constituents who fought in Vietnam and were exposed to Agent Orange and other herbicides have subsequently been diagnosed with the presumptive illnesses associated with that exposure. Now, unfortunately, many of these same veterans have not been aware that their illness was now presumptive and have gone without the care or compensation for quite some time. I personally have been working on a case of a veteran in my district who has suffered for 6 years with cancer before learning that his type of cancer is on the list of a presumptive disease.

So what are we doing to make sure—and this is a two-part question—what are we doing, first of all, to make sure that veterans are aware of the illnesses that are now listed as presumptive? And, in this gentleman's case, he is upset that why isn't compensation now retroactive to the date that the veteran was diagnosed with this presumptive illness instead of the date that the claim was filed?

So if we can answer those two, one being what are we doing to make sure the veteran knows now and doing outreach about these presumptive illnesses, and about his individual case, about the diagnosis versus the claim being filed.

Mr. WALCOFF. Let me take the first part of it, which is the outreach part.

You know, we can have the greatest benefits in the world, but they are of no value if nobody knows about them. And I totally agree with you that it is our responsibility to do everything we can to make sure that veterans understand what it is that they are entitled to.

And I will tell you that I think that we have been doing a lot of outreach. I think that part of the reason that our claims receipts have gone up as much as they have is because we have really focused on the importance of getting out there and getting the information out so that veterans know what they are entitled to.

What I will do is—I don't have with me the numbers, but, we have back at the office information about how many briefings we do every year, how many veterans we actually talk with, how many service people that we talk with right before they get out under our Transition Assistance Program briefings.

We do a lot of outreach. And I can't agree with you enough that that is the key. We absolutely have to—as much as we are doing, I think we have to do even more, because we have to make sure that that veteran, in your case, would have found out 6 years ago or whatever that he could have applied for that benefit and been entitled.

Unfortunately, as you said, the way the regulatory system works, he is not going to be entitled. And I am going to ask Tom to talk a little bit about the way that works.

Mr. PAMPERIN. Yes, ma'am. The fundamental, foundational reason why it does not go back is because the statute says, the benefits will be payable from the date of receipt of a claim prescribed by the Secretary.

Now, having said that, with presumptive disabilities, it is an established construct of both legislative and regulatory process that

benefits are prospective. They are available from the date that the final regulation—particularly, for example, the Agent Orange presumption. The Agent Orange Act specifies that the benefits are payable as of the date of the final regulation.

Now, if the veteran had previously applied, if we restrict this to Agent Orange-specific disabilities, under the *Nehmer* settlement we are obligated to identify, both from our VBA systems and we look in VHA systems, to identify people who may have been previously denied. And we review those on the Secretary's own initiative. And for those particular cases, we do go back to the date of the original claim.

Any other presumptive disability outside of the Agent Orange arena, if the veteran had the disability on the date that the regulation becomes effective and they file a claim within a year of that regulation, we can go back to that year. If they file more than a year after, we can go back 1 year from the date of the claim.

But, at its basis, the statute requires that a veteran file a claim for the benefit.

Mrs. HALVORSON. Thank you.

Mr. WALCOFF. Can I just add one thing? Yeah, back on the outreach thing again, one of the things we have done very recently, as a matter of fact since I have been acting, is we have established a new service, a new program in Central Office called the Benefits Assistance Service. And their primary function is outreach.

Whereas previously outreach was done as part of the C&P program, as part of the Compensation and Pension Service, along with all of the other things that we have been talking about today, we created this separate organization because we wanted to give more focus to outreach. And I can tell you that I spoke with the Director of that service, Rob Reynolds, yesterday about having a study done to look at our outreach program to see how we can improve it.

I just can't agree with you enough as to the basic question that you asked about making sure we get the word out as to what we have available for veterans. It is extremely important.

Mrs. HALVORSON. Because I have a caseworker in my office that does nothing but veterans cases. She goes to all the veterans organizations; she talks about what there is out there. And it is amazing that people call her and don't really know what is out there until she goes out there and talks about it. So, you know, to me, why have benefits if you don't tell people what is out there for them?

And the other suggestion I can make, and I talked about this in my opening remarks, is it is very important that we keep morale up and that people love what they do or else they need to find another job. Because these are important people that we are taking care of.

And I really want to express that we should not confuse activity with results. I know everybody is working hard. But let's get down to the bottom of actually getting things done, and not just confuse the fact that people are busy all the day.

Thank you.

Mr. HALL. Thank you, Mrs. Halvorson.

Secretary Walcoff, what is the VA's timeline for rolling out its business transformation efforts?

In light of your projections for how many cases are expected, the number that you have seen in the last year and the number that are currently awaiting processing, it seems to me that in order to break the back of the backlog, as we heard it referred to during our claims summit in March by Mr. Levin, we need to know what it's going to take to also get to the new bridge, to the new process.

So I guess it is a multi-part question. What is the timeline? What is the plan for the old bridge—the current claims that are awaiting processing? And how will these changes be translated into greater accountability and accuracy and consistency?

I am guessing that the IT piece has to be a huge part of it, because with the numbers you are dealing with, as you have said before and as Secretary Shinseki has said before, you can't catch up with this influx of new claims just by hiring more people. It is just not going to happen fast enough.

So, as the Ranking Member has been saying for years and we have all been saying, I think we really need to move into the 21st Century and the IT world in order to be able to really break the backlog.

Would you like to answer that?

Mr. WALCOFF. Sure. Let me preface it by saying that I agree that just hiring more people is not the answer. Now, the additional people we are going to be able to hire are certainly going to help.

But the real key, the actually breaking of the back, I believe, is going to be when we have that marriage of a change in our culture, the business process, and the technology.

And, as much as VBMS—the date we have been using is 2012—there are some other things that we are doing involving technology that I think are going to have a more immediate effect, and particularly with the influx of cases coming in for Agent Orange.

Let me ask Mark and Peter to talk about that. Because I think that is something that is going to be happening relatively quickly that will absolutely have an effect on bringing the backlog down.

Mark?

Mr. BOLOGNA. Thanks, Mike.

Mr. Chairman, as Mike mentioned, the Under Secretary mentioned, the Agent Orange project—so we have solicited bids for proposal on that contract. We expect to award the contract to an outside vendor.

I believe the date is July 2nd. That is to build an automated, an automated system to do development on the Agent Orange presumptive conditions, as well as the decision recommendation. We expect to have a preproduction version of that system in August, ready to roll out in the fall. That has a direct tie-in to the VBMS, to the Veterans Benefits Management System. We believe that it will come directly and tie into the platform that we are building. That is part of the methodology that we are using in fact, in developing the Veterans Benefits Management System, is a platform that is consistent with industry, is Web-based, is paperless, and is supported by technology so that when things like this, or other opportunities in the future come up, that they can put—fairly quickly lash into or supplant pieces of the system.

So the Agent Orange is well underway. As I said, we expect to have an award shortly. I think you got to see a brief demonstration

of the virtual regional office. That is complete. And so the result of that is a nearly 200-page document of business requirements that we are now working towards. That is essentially—that provided what you saw was the graphical user interface, if you will, that will become the front end of the VBMS system that the user will see. We have worked with stakeholders, including staffers of this Committee, as well as veteran service organizations and others to continue to get input on that as we move towards building the VBMS system.

The first pilot of that will be in November of this year. The pilot of the VBMS—I don't want to confuse it with some of the other pilots—will have a wire frame of that at the end of July, which is a more fleshed-out version of what you saw, followed by a preproduction later in the fiscal year.

Mr. HALL. Mr. Levin, would you like to elaborate further? While you are at it, would you elaborate on how much help it will be, given the incoming—the new claims for Operation Iraqi Freedom/Operation Enduring Freedom veterans, how much would it help you to have an immediate transfer of medical records from DoD?

Mr. LEVIN. Mr. Chairman, thank you for the opportunity to speak with you today and to answer your questions. Let me provide a little bit of context to the answers that you have already heard from the Under Secretary and from my friend and colleague, Mark Bologna.

And let me start a very, very brief version of the story, already back last fall, where we initiated this Web-enabled innovation initiative, this knowledge management system, that reached out to our employees, some 7,000 of them who participated in this effort, followed earlier this year, subsequent to the innovation initiative, with the so-called Louisville conference where we reached out to the RO leadership.

So we have collected, between these two initiatives, thousands of ideas. Is that interesting in terms of breaking the backlog in a way that we can measure? No, not really. Is it profoundly important in this cultural transformation which you have heard about all afternoon? Absolutely, yes.

So what we are trying to convey to our employees, to our stakeholders, to the VSOs, to the veterans, is this ability to outreach, this ability to listen, and frankly to pull in some of these ideas that are going to go all the way into the VBMS system.

I want to say what Mark said in a slightly different way, and ask you to hold us accountable to the following deliverables. First of all, you know about the innovation initiatives. They are in the process of being implemented right now. You have heard about the VRO, probably ad nauseam. You don't need to hear about that anymore, you have seen it.

So this coming July, in just 6 weeks or so, you will be able to see the true design of the paperless pilot, the so-called wire-frame production—I am sorry, wire-frame design. In August we are going to have the Agent Orange preproduction. In September we are going to have the preproduction of the paperless pilot. In October we are going to have the AO production. In November we are going to have the paperless project end to end.

I said it fast, but I wanted you to hear July, August, September, October and November. We are doing this in a very very systematic, very methodical way, and we are doing it in a way that we can measure, pull the data out, and make sure we are achieving our performance metric.

To your question, sir, about our ability to—or the benefit that we would get from pulling some of the medical records out of DoD. Sir, you know the answer to this question already. It would be great, it would help us a lot. I don't want to, by any means, convey that this is an impediment to us right now.

Mark and I and our colleagues have a lot to do. The VLER project is proceeding simultaneously. I have the extraordinary privilege and pleasure of being the CTO to VBA and also the CTO to the VLER project, so there is automatically a connection there. We are working very hard on making that dream a reality. And there will be good news on that front as well. Absolutely it will help cut down the backlog, absolutely it will make things go faster. But please, sir, we are focused on the Agent Orange and the wire-frame design at the moment, and that isn't necessarily being impeded by the VLER project.

Mr. HALL. I just wanted to ask, first of all, Mr. Secretary, for your comments on how close you are or how doable it is to have a full-time trainer at each RO, as one of our earlier witnesses suggested, with regular instruction and question-and-answer opportunities, or is such a thing already happening in some of the ROs?

Mr. WALCOFF. We have a full-time, I believe—let me ask Diana to answer, Ms. Rubens to answer, because I was going to answer off the top of my head and she actually works with it every day, so let me ask her to do that.

Ms. RUBENS. Thanks, Mr. Walcoff.

Mr. Chairman, thank you so much. In fact, we do have training coordinators in all of our regional offices, fully engaged in implementing the training plans as they have been, one, developed in an overarching way with the coordination with the C&P Service, but also at the local level identifying what training needs to be addressed. Just earlier this year, just last month actually, we had all of them together in Baltimore to work together on making sure they understood their role, their responsibilities, and working to strengthen that training program at the local level.

Mr. HALL. Thank you. It is our understanding that the fast-track contract has been contested. Is this the case? And if so, how would this affect the process?

Mr. WALCOFF. Dr. Levin will address that.

Mr. LEVIN. Mr. Chairman, I by no means want to—don't want to prejudice any outcomes that you may be hearing about shortly. We have carefully reviewed that protest and have conveyed a very clear recommendation to the GAO about why we think we should be allowed to proceed forward. I expect to be hearing a more formal decision that we can convey to Congress very, very shortly.

Mr. HALL. Mr. Secretary, could you tell us some of the specifics that you have learned from your pilots, particularly the telephone claims development medical questionnaires and interim ratings. And if VA already has the authority to issue interim ratings, should there be a pilot engaged to give veterans this benefit?

Shouldn't it already be more widely used, or is it being more widely used than what we are hearing?

Mr. WALCOFF. Let me start with the interim ratings. In the context that we are talking about, we are talking about a situation, using as an example, an ischemic heart disease claim. Where a claim comes in, we know—we can determine eligibility very simply, because all you need to be eligible is proof that you have in-country service in Vietnam, and a diagnosis that you have the illness. So if you have those two things, then the only other issue left is to determine how serious is the disability, what rate should we pay?

So that is a good example of a situation where in this context we would pay the compensable minimum to the veteran while we were doing the exam or whatever is involved with determining what the actual permanent rating would be. But the reason why that is a good example is because in that situation, you have everything you need to determine that the person is going to be getting at least something for that benefit. Okay. Now, not every situation fits that, and we have to go through and determine which conditions would be such that we would be able to make that determination.

Now, another way that interim rating is often thought of, and I want to clarify that, is you file for five conditions, and we get the information back and we have two conditions that—all the evidence is back and we can rate the case and we can pay the full benefit. We want to make sure—and this is something that we should be doing nationally anyway—but we have reinforced it recently, and that is that instead of waiting for there to be all the evidence in on all five issues, and then rate the case and then pay the benefit, we are making sure that rating specialists will rate and pay for the two issues that they can while they are continuing to develop the other three. That, sir, is something that can be and should be done across the country.

Mr. HALL. Thank you. And has the VA performed a time and motion study to ascertain how much time is actually required to perform tasks of different parts of the adjudicating claims? If so, when and would you provide any information that you have on that to the Subcommittee?

Mr. WALCOFF. I would have to go back and check when the last one that we did. It hasn't been recently, but I will go back and check when the last one happened.

[The VA subsequently provided the following information:]

The VA provided the 2004 Work Measurement Study entitled, "Electronic Work Measurement Application Final Work Rate Standards," dated July 15, 2004, which generated the results currently used by VBA. The report appears on p. 72. Some of the tables are being retained in the Committee files.

Mr. HALL. Do you think the VA should expand its Systematic Technical Accuracy Review (STAR) review? Are there any efforts underway to do that, or is an independent third-party review necessary?

Mr. WALCOFF. Mr. Chairman, I share with you and all of the witnesses here the recognition of how important quality is. When we talk about eliminating the backlog, we have to be talking about that at the same time that we talk about the 98-percent quality goal, which is an extremely difficult and challenging goal the Secretary has set for us.

We have expanded our quality assurance program, our STAR unit in Nashville. There was a recent study done by the OIG which said, "You broker a lot of work to other stations and yet you don't do separate quality reviews for that. You know, you need to expand your quality assurance to look at brokered work." We did that. We also added people to the STAR unit so that they could review a larger number of cases, so we recognize the importance of the quality assurance program.

I do not believe that we need an independent organization to do review. The people that are doing the reviews in Nashville are not affiliated in any way with the regional offices that the cases are coming from. They don't work in that same organization, they work for a headquarters organization, which is very different from the field organizations. So I do believe that you get that neutral, objective review.

And I want to add one other thing, and that is that, as I said, the Secretary set a goal for us of 98 percent quality. I believe we have great employees, and I believe our employees, as they get more experience, the quality will improve. We are currently at 83 percent. But I will tell you that it is going to be extremely difficult, using the current systems, for us to get to 98 percent quality. And that is why to me the real answer to the backlog and to the 98 percent quality is the technology.

And that is when I turn to Mark and to Peter and say, get me a system, build me a system that will help our employees, that will guide them through when they are working a claim, so if they go to make an error it stops them and says, no, that is not the right answer. I believe we need a system like that to reach the 98 percent quality, and they are building it for me.

Mr. HALL. I would tend to agree. And I would also agree with Mr. Cohen and with Chairman Filner of the full Committee that—and Secretary Shinseki—that presumption needs to be built into the system and repeated to personnel that the veteran is presumed to have a legitimate claim unless it is proven otherwise, since it is in our civil criminal justice system that you are innocent until proven guilty. Do you want to comment?

Mr. WALCOFF. I just wanted to mention that there is one thing that Mr. Cohen said that I don't agree with. And that is that we look at every case as if the veteran is trying to commit fraud on us. That is absolutely not true, absolutely not true.

I believe that when veterans file a claim for a benefit, they honestly believe they are entitled to the benefit. It is not a question of trying to pull one over on us or anything like that. You know, they don't know what is included in the rating schedule, they don't know exactly what is required necessarily to be able to prove their condition. So that is the one thing I want to say.

The second thing I want to say is that while I don't necessarily agree with some of the ideas in terms of just pay everybody and do an IRS audit-type of thing, I will tell you that we are very interested in talking to anybody who has any kinds of ideas. And we met very recently with Professor Bilmes, who is the one who first put that idea forward. We spent about 8 hours with her last week, with the idea of listening, talking with her, and trying to get some ideas from her of things that we could do to try to improve the sys-

tem. We are not going to agree on everything, but I thought it was very fruitful and we got a lot out of the meeting.

Mr. HALL. I am glad to hear you had that meeting. That is certainly one of the ways of breaking the backlog. Could you please give us an update on outstanding efforts today for Public Law 110-389, such as substitution regulation and certification requirements for claims processing personnel and management?

Mr. WALCOFF. Tom, do you want to take that?

Mr. PAMPERIN. Yes, sir. The substitution regulation, we have been working closely with General Counsel and the Board of Veterans' Appeals. We have provided some guidance to the field, limited guidance, in the absence of regulation that we think we can go forward based upon the statute itself. But it is a very complex situation with a lot of nuances in it, and people are working on that as one of the primary things. I realize it has been a while, but they are working on that one. We can get you more information.

[The VA subsequently provided the following information:]

Thirty-eight U.S.C. § 5121A was created by Section 212 of the Veterans' Benefits Improvement Act of 2008, Public Law 110-389. This statute provides, in pertinent part, that where a claimant dies after October 10, 2008, an eligible survivor may, within a year of the original claimant's death, request to be substituted as the claimant for the purposes of processing a claim to its completion.

To implement this statute, VBA has drafted a proposed rulemaking that allows eligible survivors to substitute for deceased original claimants. Under the proposed rulemaking, if the original claimant dies while his or her claim or appeal is pending, then a survivor eligible for accrued benefits, may, within 1 year after the death of the original claimant, request substitution. Where VA determines that substitution is appropriate, VA will notify the substitute claimant and continue to process the claim or appeal as if the original claimant had not died. After the proposed rulemaking goes through concurrence, VA will publish the proposed rulemaking in the *Federal Register*.

In the interim, VA has taken actions to allow potential substitute claimants to preserve their substitution rights. In June of 2009, VA published VA Form 21-0847, Request for Substitution of Claimant Upon Death of Claimant. On August 10, 2010, VA published Fast Letter 10-30 on the subject of Substitution of Party in Case of Claimant's Death (FL 10-30). FL 10-30 instructs regional offices that VA will accept requests for substitution and that the date for the request for substitution will be the date that the written request for substitution is received by VA.

Mr. HALL. I thank you. I want to ask one final question. There is a vote that is almost down to zero across the street, so any further questions we will have to send you in writing. I know you will be glad to receive them.

But I wanted to ask for an update, if you could, on the search for a permanent Under Secretary, and when he or she is appointed, if you could, to quote from one of our first panelists, ensure that recommendations for reform are not nibbled into oblivion by the "ducks of turf protection," unquote.

You don't have to answer that, sir. Thank you. At least not verbally. You can answer in writing if you wish. I thought I was a creative writer. We have to have some levity or this work would be too serious for all of us.

I thank you for the work you are doing, thank other panelists as well, all of our panelists, for the sacrifices you made for our country and for our veterans, and thank you again for your testimony today. Give all Members 5 legislative days to revise and extend their testimony, and this hearing is adjourned.

[Whereupon, at 5 p.m., the Subcommittee was adjourned.]

A P P E N D I X

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

Good afternoon ladies and gentlemen. Would everyone please rise for the Pledge of Allegiance? Flags are located at the front and back of the room.

I welcome everyone here for today's hearing entitled, "The State of the Veterans Benefits Administration." This hearing represents the 7th hearing this year and the 15th for the 111th Congress that this Committee has conducted relating to problems plaguing the disability claims processing system. While oversight has been vigorous with significant activity on this front from stakeholders across the Board, the system is still in need of comprehensive repair.

Today, there are over 546,000 compensation and pension claims awaiting final processing and a complete inventory or backlog of over 1 million total claims and appeals within the VBA pending a decision. VBA workforce of over 13,000 employed in its compensation and pension operation, this figure represents a staffing increase of 32 percent since Democrats assumed control of Congress in 2007. However, as we have stated in the past the problems plaguing VBA are not just workforce issues, they are leadership methodology, culture, & technology issue. That is why we passed the Veterans Benefits Modernization Act, H.R. 5892, which was included almost in its totality in Public Law 110-389. As many of you in this room recall, with your help, P.L. 110-389 established a guided roadmap for VA to get us to where we are today—encouraged by all of the reform efforts that VA is making but cautious to make sure we're doing everything we can to help VA make meaningful reformation of its claims processing system.

However, we want to avoid action for the sake of action and make certain that the 30-plus pilots that the VBA has going, translate into real change for our veterans and survivors languishing in the backlog. I think that most stakeholders believe that a comprehensive overhaul still is in order and I am encouraged that we seem to be on the right path to get there. I think we have the right leader for this monumental task in Secretary Shinseki, who seems to have both the vision and the commitment to get us to a more Veteran-centered, 21st Century system claims processing system.

We all know about the myriad of problems plaguing the VBA's current claims processing system—lack of adequate training, a 30-40 percent error rate, a paper-based system, outdated IT architecture, and work credit and management systems that overemphasizes quality over quantity, with not enough emphasis on, accountability, consistency or accuracy. As I have said many times and I know that many of you agree as does Secretary Shinseki, we want a system that gets it right the first time—one that renders decisions in which our veterans and stakeholders have 100 percent confidence. Currently that is not the case.

However, we are not here to blame anyone for where we are today, because the claims backlog is a decades old problem that is coming to a head mostly because we are currently engaged in two wars for which there was little planning, at the same time that our older vets are aging and need more care. We want to focus on solutions. I expect to get a comprehensive update on where VA is today and what it plans to do to meet its 2015 claims transformation target with its new Veterans Benefits Management and Veterans Relationship Manager Systems. We also seek to learn if and how these two new systems interface with the Virtual Lifetime Electronic Records Initiative announced by Secretary Shinseki. Further, while recognizing the good work of VA's acting under secretary for Benefits, we look forward to learning about the status of VA's effort to bring aboard a permanent Under Secretary.

I think we all have the same goal, which is to ensure that we have a world-class and modern claims processing system that helps our veterans, their families and survivors to secure the benefits they deserve and have earned without delay.

With that, I look forward to the insightful testimony of our witnesses and to comments and questions from my colleagues on the Subcommittee. I now recognize Ranking Member Lamborn for his opening statement.

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

Thank you Mr. Chairman,

It's been nearly 1 year to the day since this Subcommittee convened to discuss VA's ongoing struggle to overcome the backlog of disability claims.

Multiple hearings have been devoted to this topic and the underlying need for VA to improve the timeliness and accuracy of its adjudication process.

Anyone who has followed this Subcommittee's hearings over the past several years knows that I have long advocated for better use of information technology as a partial remedy to VA's problems.

I am pleased that the "Virtual RO" concept I introduced in 2007 to modernize the claims process is being included in the Veterans Benefit Management System, and I hope that it and the other integral parts of the VBMS will establish the framework needed to transform VA into a 21st century benefits system.

I look forward to hearing from our VA panel this afternoon, an update on the status of the pilot programs that are underway—how long will it be before they are implemented, and how soon will they have a positive impact?

While I understand that diligence is required when a foundation's pillars are being set, it is imperative that VA continues its progress with the utmost sense of urgency.

Veterans are suffering as a result of the ever increasing inventory of claims, and this is simply inexcusable.

There was no hesitation on their part when it came to serving our Nation in a time of need, and they should not have to wait months and years to receive compensation for the injuries they incurred during service.

Thank you Mr. Chairman, I yield back.

**Prepared Statement of Lieutenant General Ronald R. Blanck, USA (Ret.),
D.O., Member, Advisory Committee on Disability Compensation**

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

The Committee has met nineteen times and has forwarded an interim report to the Secretary that addressed our efforts as of July 7, 2009 to date. (Copies of this interim report were furnished to majority and minority staff in both Houses of Congress.) The Secretary of Veterans Affairs responded to the interim report on February 23, 2010. (Copy provided for the Record). The Committee has prepared a draft report to fulfill the statutory requirement to submit a report by October 31, 2010. (Copy provided for the Record.)

Our focus is in three areas of disability compensation: Requirements and methodology for reviewing and updating the VASRD; adequacy and sequencing of transition compensation and procedures for servicemembers transitioning to veteran status with special emphasis on seriously ill or wounded servicemembers; and disability compensation for non-economic loss (often referred to as quality of life).

Your letter of invitation asked me to present the Committee's views on the current Veterans Benefits Administration. I will focus on the current status of review and update of the VASRD.

I begin by acknowledging the progress that has been made in reviewing and updating the VASRD. Standards for the diagnosis and evaluation of TBI have been

established. There has been progress to date in reviewing the entire mental disability category with emphasis on PTSD. Preliminary steps are underway to review the musculoskeletal body system and the endocrine system.

The Committee remains convinced that an updated and clarified Rating Schedule is key to enabling examining, rating and reviewing officials to make a more accurate and timely assessment of a veteran's disability and its effect on his or her average earnings loss and that an updated and clarified Rating Schedule should improve first time accuracy and reduce the number of appeals and the backlog that appeals create. The updated Rating Schedule should address the recognized inconsistencies in mental versus physical disabilities and in differences in age at entry into the disability system.

Recent studies by the Veterans Disability Benefits Commission, the Institute of Medicine, the General Accounting Office and others have consistently recommended a systematic review and update process for the VASRD. The Congress has repeatedly demanded the same. I believe that the case for such a review is made and that sufficient data currently exists to proceed with a review and update. The Committee recommended to the Secretary that the Deputy Secretary be tasked with oversight of the VASRD systematic review and update process to insure that the VBA, VHA and General Counsel are fully integrated into the process. We proposed a level of permanent staffing in both VBA and VHA to insure that all 15 body systems are reviewed and updated, as necessary, in a timely way. We believe that a minimum of three body systems can and should be reviewed and updated each year on a recurring basis. We proposed a priority among the body systems that takes into account the following: body systems that are at greatest risk of inappropriate evaluations; body systems are considered problem prone, and relative number of veterans and veterans' payments associated with each body system.

The Secretary's response to the recommendations in our interim report concurs in general with most of our recommendations but does not commit to specific management procedures, staffing, or timeline for review and update.

The Committee has proposed a detailed procedure for review and updating the VASRD. This procedure is an addendum to the report we are submitting in accordance with our statutory requirement. It may be overly prescriptive in nature, but it offers a standing procedure for reviewing and updating all body systems.

The Committee foresees requirements for two studies. The first is to validate horizontal and vertical equity in the tables of disability. For example, prior studies have shown a disparity in earnings capacity between mental and physical disabilities at most levels. VA should conduct this study every three to 5 years. It can be done internally or by contract. The second study is an in depth study of the Vocational Rehabilitation Program. A contract study was begun last year but cancelled. Low participation rates and completion rates indicate need for a study to assess all programs and make recommendations for change. This study can also be done internally or by contract.

Regarding disability compensation for non-economic loss, also referred to as quality of life, we are reviewing the Special Monthly Compensation program as a potential model for quality of life system and we are analyzing options for forms of compensation beyond a monetary stipend. One of our concerns is to avoid a compensation system for non-economic loss that encourages seeking increasingly higher levels of compensation. Our current view is that quality of life compensation should be limited to clearly defined and very serious disability.

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

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

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

**Prepared Statement of Carol Wild Scott, Chairman,
Veterans Law Section, Federal Bar Association**

Good Afternoon Chairman Hall, Ranking Member Lamborn and Members of the Subcommittee.

Thank you for holding this important hearing on the state of Veterans Benefits Administration. I am pleased to provide this testimony on behalf of the Veterans Law Section of the Federal Bar Association. The FBA is the foremost national association of private and government lawyers engaged in the practice of law before the Federal courts and federal agencies. Sixteen thousand members belong to the Federal Bar Association. The Veterans Law Section of the Federal Bar Association is one of a dozen sections within the Association, organized by substantive areas of practice. The comments herein are exclusively those of the Veterans Law Section and do not necessarily reflect the views or official position of the entire Association.

Numerous written submissions and hours of testimony have sought to find a solution to the state into which the Department of Veterans Affairs has fallen. The Claims Summit 12 weeks ago and the Hearing before this Committee five weeks ago all addressed the same issues—what has gone wrong and how do we fix it? There are several facts which are inescapable. The mounting backlog is out of control. The backlog is symptomatic of a process out of control. The operative term is “control.” The Veterans Law Section (VLA) and NOVA met with the Transition Team before Secretary Shinseki agreed to assume the monumental task of bringing the VA under control. Our two organizations stressed that the most important challenge of the Administration was gaining control through implementation of vertical accountability.

Vertical Accountability

Since that time Secretary Shinseki has come on board and vowed to break the backlog and to turn the VA into a Veteran-friendly agency. There have been numerous studies and audits since that time. Not a single one of them has found in a single RO the seeds of perfection. Nor have any of them found strong internal lines of accountability that run from the Regional Office management level to the Secretary’s desk. The VBA is the size of a small army. For too many decades it has operated as if the colonels were all in charge—each with an individual regional command that operates day-to-day as the individual circumstances may dictate.

The regions between the 57 individual offices and that of the Secretary seem to be a bureaucratic no-man’s land, with numerous intermediate positions that at the end of the day are wholly accountable to no one but themselves. This clearly must end. Report after report documents the fact that individual offices are extremely inventive in devising methods for making the figures look good when in reality they are not. They also uniformly note the need for greater oversight. Oversight begins at the Secretary’s desk with the re-arrangement of the bureaucracy of VA into an organization with a strong, vertically accountable chain of command. This, we firmly believe, is the greatest challenge. This Secretary, more than any of his immediate predecessors, has the leadership skills to meet the challenge and at the same time gain the trust he must have from at least two communities—the veterans and the VA itself.

Technology Challenges—When will we see a paperless VA?

Technology and the challenge of transforming the paper-laden process of claim adjudication into a smoothly operating system in which all information is readily available seem insurmountable. We all heard during the Claims Summit and subsequently that while a great many prior attempts had been discarded as unworkable, there was great hope for a new effort in Baltimore. At the same time a plethora of working programs seem to exist for the purpose of tracking cases and quality oversight. Apparently they lack the capacity to talk to each other. Other organizations and agencies have managed to accomplish the transition. The CAVC initiated electronic filing by just doing it by a date certain. There were glitches at the beginning, but they were worked out. The IRS and Social Security have, in the last few years, accomplished this task with systems nearly as vast, but more vertically manageable. The Veterans Law Section of the Federal Bar Association believes that inasmuch as the VA must begin somewhere, that a pilot system should be set up in one office, preferably a smaller office, and begin to scan into an expandable, web-based system all claims filed in that office and follow through with the development of those claims in the same manner. As the information comes in on those claims it would be scanned into the system. As the problems are recognized and solved, the system can be integrated into another office. The point is, the only way to solve the problems posed by the current structure is through technology.

Process Management

The Veterans Law Section continues to urge VBA to change the basic way in which the individual offices process claims. The POD project, a pilot program at the Little Rock Regional Office and described in the Booz Allen Hamilton Report, has not yet been audited for effectiveness and improvement. However, in terms of potential for processing the numerous complex claims with which the system is now significantly over-loaded, it shows the most promise. It is also, because of the internal structure, the best candidate for a starting point for digital claim processing.

The POD process should integrate into discrete teams, each with representatives from five of the six currently identified “teams”: Pre-determination, Rating, Post-determination, Public contact and Appeals. The number of team members from each “specialty” should be weighted according to workload—number of files with seven or less issues as the demarcation point and the relative experience of the team members in those specialties. As the individual office acquires added personnel, utilizing the team structure would provide opportunity for more concentrated OJT and mentoring. The most important aspect of this modality is the inculcation of “ownership” of the individual claim. There is less opportunity for inadequate records requests and medical VAEs. When questions arise, communication with the individual veteran, attorney or representative is encouraged. Interaction among team members should also improve employee morale, and “humanize” the veteran by providing him/her with an identity.

VLS suggests as another variable the assignment claim development by issue areas specific to some identifiable types of claims. VAOIG inspections of several Regional Offices, reported from November 2009—March 2010, identified multiple challenges in providing timely, accurate rating decisions, among which were consistent difficulties with PTSD, herbicide exposure and TBI. Establishing medically specialized teams to process claims related to these issues within the POD modality, rather than turning them into brokered files, makes sense. These are disabilities that usually involve several body systems. The medicine is complex and daunting, with distinct training issues. Providing concentrated instruction in areas in which there are inherently complex medical issues would decrease processing time by training triage members of each team to recognize the issue and hand the file off immediately to the specialty team, and thus putting it quickly into the proper queues.

Similarly, the knowledge level in the medical specialty triage and pre-development team members would enhance the probability of recognizing those claims in which the reports and medical history submitted with the claim render it ready to rate or nearly so. To this end, VLS renews the encouragement of a treating physician rule. Regardless of whether treatment has been by VHA or private providers, nexus opinions and questions of the level of disability/extent of impairment should be addressed to those providers. The concept that a VHA physician is incompetent to provide a nexus opinion because the treating physician is inherently biased is inherently absurd. There is eminently more reliable information to be gained from the provider who has spent considerable time treating the veteran and to whom a digital copy of the c-file has been made available than from a contractor or VHA personnel who may or may not have actually seen the file and who spends at best 30 minutes (and usually only 10–15 minutes) with the veteran.

Medical VAE requests would be properly generated with the appropriate questions sent to the provider, including designation of the professional level of knowledge required for an adequate exam. This would require improved communication between VBA and VHA managers to provide for the appropriate expertise as well as timeliness of the exams. (The DVA–OIG Audit of VA’s Efforts To Provide Timely Compensation and Pension Medical Examinations, March 17, 2010, determined that “VA has not established procedures to identify and monitor resources needed to conduct C&P medical exams and to ensure resources are appropriately planned for, allocated and strategically placed to meet the demand.”) Concurrently with improved coordination should be the elimination of such practices as assigning complex neurology or oncology issues to nurse practitioners.

VLS continues to encourage VBA to enhance the position of Decision Review Officer as immediate supervisory personnel over the Claim Processing Teams within the POD structure. The DRO program was initially designed to limit the number of appeals to the Board by resolving the issues at the RO appeals level. Built into the program was the opportunity for hearing, paper review and/or dialogue with the veteran or representative. The process is susceptible to an expanded role. Each DRO, tested and certified to the position would then exercise quality review over the decisions rendered by the teams assigned to him for adequacy of development, as well as accuracy of the decisions. The DRO would provide mentoring for the RSVRs as part of the quality review. A cogent, intelligible rating decision should issue that clearly and straightforwardly sets out the issue, the reason for the decision and the

options available to the veteran. Should the decision result in an NOD, the right to DRO review and a hearing should be clearly stated, as well as the instructions for filing a Form 9 and Substantive Appeal. (VLS continues to urge that the SOC be eliminated).

Training Issues

The statistics from the Board and the CAVC give a strong indication that there are and will continue to be serious training issues in both the rating and appeals process. CAVC routinely remands 70–80 percent of the cases coming before it. Another 5 percent are reversed and then remanded. The Court agrees with the Board only 20–25 percent of the time, according to Judge Kasold's testimony of May 2009. In a system in which the Board has claimed an accuracy rate of in excess of 90 percent, there is clearly a disconnect. Similarly, the Board, in FY 2009 either remanded or allowed 61 percent of the 48,800 appeals in which they made decisions, thus finding that the Regional Office decision was correct in only 39 percent of the cases. This level of error is strongly suggestive of serious training deficiencies from the Benefits Academy to the continuing education which every rating employee is required to receive annually.

VLS encourages VBA to re-examine the curriculum and the qualifications of the instructors at the Academy, with the result that specific protocols be in place for appointment as an instructor. We also urge that advances in adult education methodology and recruitment of experts and consultants external to VA be utilized. The statistics indicate that the instructional and training entities have become cocooned, such that too often errors are repeated through instruction. The Academy should be the focal point and resource for all instruction agency-wide with a Director directly accountable to VBA management.

A complex array of disabilities affect the veteran population residual from Vietnam, the Gulf War, and OIF/OEF. Rating employees have expressed the need for instruction in TBIs, and a significant error rate has been found with PTSD and herbicide exposure. VBA must ensure that the medical instruction blocs meet the needs of the demographics of the veteran population. The medical issues of exposure to toxins from the Gulf War to the burn pits in Iraq must be included as these affect multiple body systems.

VLS also recommends that the POD modality also include a full-time training coordinator in each Regional Office who monitors on site the training needs and requirements, sets a curriculum consistent with those universal to the agency, and ensures that instruction and Q&A are available to the individual employee. Additionally, on-site proficiency testing is then available for VSRs ready for promotion to RVSRs and RVSRs aspiring to the position of DRO. (The exam certifying the DRO should equate with the Agent's exam and re-certification should be required bi-annually to ensure currency with case law and regulatory changes.) On-site training should also include training in medical issues.

Attorney Representation

VLS continues to urge legislative amendment of 38 U.S.C. Sect. 5904(c) to expand the availability of fee based representation to veterans filing the initial claim with VA. We must remember that when the original fee limitation was imposed, the veteran was in nearly all instances marginally educated and lawyers were generally looked upon with disfavor. There was little licensing and few restrictions on practice or ethics. Even with WWII the average veteran was part of an agrarian demographic. The issue of attorney representation was not addressed. The regulations governing fee-based practice before the agency are the most restrictive of any federal agency. Regardless of extensive self regulation and state and federal court rules of ethics and conduct, VA continues to regard attorneys with unwarranted mistrust.

The demographic has changed. Today's veteran has fought a highly technological war. This is the best educated army in history. Men and women who have fought and survived the significant horrors of today's battlefield deserve the dignity of determining for themselves whether they wish to represent themselves, be represented by an organizational VSO or retain professional counsel. This generation of veterans, like the Vietnam veterans before them, has founded their own veterans' organizations to address the issues inherent in the conflicts they experienced. Just as the Vietnam veterans, they support fee-based representation before the Agency beginning at the point at which the claim is filed.

The most recent annual report of the Chairman of the Board of Veterans' Appeals demonstrates the value of attorney representation to veterans, their families and survivors. The enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006, P.L. 109-461, for the first time imparted to veterans the right to retain counsel should they wish to do so. In FY 2009, those claimants who

had attorney representation at the BVA received a larger percentage of favorable results than did those without attorney representation and a larger percentage of favorable results than did those who were represented by VSOs.

FY 2009						
Representation	Allowed		Remanded		Positive Outcome	
	No.	%	No.	%	No.	%
VSO's Overall	7,688	24.8	11,714	37.8	19,402	62.6
<i>American Legion</i>	2,100	23.5	3,469	38.8	5,569	62.3
<i>Amvets</i>	65	25.6	91	35.8	156	61.4
<i>DAV</i>	3,853	25.5	5,607	37.1	9,460	62.6
<i>MOPH</i>	179	31.7	191	33.8	370	65.4
<i>PVA</i>	118	28.7	156	38.0	274	66.6
<i>VFW</i>	1,138	24.2	1,746	37.2	2,884	61.3
<i>VVA</i>	235	23.8	454	46.0	689	69.8
State Svs. Org	1,975	24.1	2,802	34.2	4,777	58.3
Attorney	853	22.7	1,743	46.4	2,596	69.0
Agents	21	23.1	32	35.2	53	58.2
Other Rep	304	28.1	357	33.1	661	61.2
No Rep	886	18.7	1,554	32.9	2,440	51.6
Total	11,727	24.0	18,202	37.3	29,929	61.3

The Veterans Law Section strongly supports the repeal of the restriction on attorney representation. We further support the rejection by this Committee of the proposed legislation which the VA drafted and titled the "Veterans Benefits Programs Improvement Act of 2010." The proposed legislation is antithetical not only to according veterans the right to attorney representation in filing their claims for compensation, but also to any meaningful review of Agency decisions regarding those claims. Section 207 of the proposed legislation significantly limits the application of the Equal Access to Justice Act ("EAJA") fees by limiting the veteran's payment of EAJA fees. Upon issuance of a CAVC decision remanding the case back to the Agency, and determination of the appellant to be the prevailing party with a substantially justified legal position, the appellant under this provision, would not receive the awarded fee. Only if the remand results, either before the Board or the RO in an ultimate award of monetary or other benefits would the EAJA fees ultimately be forthcoming. The Veterans Law Section submits that this provision will substantially limit attorney representation before the Court. Consequently this provision requires the closest scrutiny by both Congressional chambers.

VLS does not support other provisions of the Secretary's proposed legislation, including the imposition in Sections 202 and 203 of jurisdictional time limits on appeals within the Agency. This is a somewhat cynical effort to eradicate the backlog by making it extremely difficult for a generation of veterans to perfect their claims and meet shortened filing deadlines—when over half of them are diagnosed with TBIs, PTSD or other mental disorder, all of which impair the ability to organize and respond to deadlines. Neither does VLS support the proposal in Section 206 that the Board no longer be required to render decisions in which factual determinations are supported by adequate reasons and bases, but such determination must only be "plausible."

In conclusion, the Veterans Law Section thanks the Committee for the opportunity to share our views on some of the issues facing the VA and our veterans. We must take whatever measures are necessary to make whole the men and women who have put their lives on the line in order that we may have the luxury of this discussion. We owe them not only treatment of wounds seen and unseen but as

much restoration of their quality of life as is humanly possible. With now over a million pending claims, it matters not who represents whom, or on whose shoulders the blame properly lies. The job must be done, and rather than ensure that each recommendation for revision or reform is nibbled into oblivion by the ducks of turf protection, it is time to recognize, as the cartoon strip character Pogo once did, that we have met the enemy and he is us.

Thank you for the opportunity to present these views on behalf of the Veterans Law Section of the Federal Bar Association. I will be happy to respond to any questions you may have.

**Prepared Statement of Joseph A. Violante, National Legislative Director,
Disabled American Veterans**

Mr. Chairman and Members of the Subcommittee:

Thank you for holding today's important hearing on the State of the Veterans Benefits Administration (VBA) and for inviting me to provide testimony to the Subcommittee on behalf of the Disabled American Veterans (DAV). VBA provides an array of benefits to veterans, particularly disabled veterans, including disability compensation and pensions, vocational rehabilitation, education assistance, home loans, and insurance programs. DAV has comprehensive recommendations on how to improve all of these programs that can be found in our legislative agenda as well as in *The Independent Budget*, and we commend both of those publications to the Subcommittee.

Our legislative priorities for the 111th Congress include the full phase-in of concurrent receipt, elimination of the SBP/DIC offset, and increases in the home and auto adaptive grant programs. We also believe that Congress and VBA must address the inequity that exists for disabled veterans receiving vocational rehabilitation benefits under Chapter 31 compared to the new education benefits created by the Post-9/11 GI Bill under Chapter 33. We recommend that Congress authorize Vocational Rehabilitation (Chapter 31) participants to have dual eligibility so that they can receive the higher subsistence allowance offered under the Post-9/11 GI Bill (Chapter 33). This would prevent veterans from having to choose between a program that provides a greater financial benefit and one that focuses on their rehabilitation as they seek to support themselves and their families.

However, for today's hearing focused on the State of the VBA, I would like to focus on their largest and most significant program: veterans disability compensation. For disabled veterans, receiving a timely and proper disability rating is the gateway to all of the VBA benefits to which they are entitled. As such, the problems that have plagued and continue to plague VBA in efficiently administering this program have correctly received the most attention from Congress and VSOs in recent years. In fact, this is the sixth Subcommittee hearing this year examining VBA's claims processing system and I want to applaud you for your continued vigilance on behalf of America's 3 million disabled veterans, their families and survivors.

A core mission of VBA is the provision of benefits to relieve the economic effects of injury, disease, or disability upon veterans and their families. For those benefits to effectively fulfill their intended purpose, VBA must promptly deliver them to veterans. The ability of disabled veterans to provide for themselves and their families often depends on these benefits. The need for benefits among disabled veterans and their dependents is usually urgent. While awaiting action by VBA, they and their families suffer hardships; protracted delays can lead to deprivation, bankruptcies, and homelessness. Disability benefits are critical, and providing for disabled veterans should always be a top priority of the government.

VBA can promptly deliver benefits to entitled veterans only if it can process and adjudicate claims in a timely and accurate fashion. However, VBA has been unable to meet its claims workload or correct systemic deficiencies.

Mr. Chairman, as you are acutely aware, thousands of disabled veterans today face unacceptable delays and unjustified denials of their applications for VA benefits, particularly disability compensation. As of June 5, 2010, there were 546,387 pending claims for disability compensation and pensions awaiting rating decisions by the VBA; 198,891 (35.9 percent) of the claims exceeded VBA's 125-day strategic goal.

Worse, by VBA's own measurement the accuracy of disability compensation rating decisions for the 12-month period ending in March 2010 was just 83 percent, continuing a downward trend for the past several years. What these statistics confirm is what DAV and others have known for some time: the process for approving vet-

erans claims for disability compensation is broken. As a result, too many disabled veterans today are waiting too long for rating decisions that are too often wrong.

However, despite the current problems at VBA, there are reasons to be optimistic about its chances for improvement. Over the past 6 months, with mounting pressure from DAV and other veterans service organizations, there has been a welcome increase in attention from Congress and the Administration to these problems. Both VA and VBA leadership have been refreshingly forthcoming in acknowledging long-standing problems, and have provided candid assessments to this Subcommittee as well as the full Committee in other forums.

These new attitudes by VBA, as well as a recent flurry of activities aimed at transforming the claims processing system are encouraging signs. We are pleased that Secretary Shinseki has made reform of the claims processing system a top priority, as evidenced by his oft-repeated goal of “breaking the back of the backlog this year.” We would, however, provide a caution and a caveat to this seemingly laudable goal.

Mr. Chairman, like you, DAV remains frustrated by the large and growing backlog, or claims inventory as VBA calls it, and especially by their inability to bring it under control. However, it is essential to remember that the backlog is not the problem, nor is it the cause of the problem; rather it is a symptom, albeit a very serious one. It is analogous to a person with a very high fever; they may take aspirin to reduce the fever, but unless the underlying cause for the fever is addressed, the fever can return, increase and the patient’s condition may worsen.

For VBA, if leadership, management and employee incentives remain focused first and foremost on reducing the backlog, they may well achieve a smaller backlog, but that does not necessarily translate into veterans being better served. After all, adjudicating more benefit claims more quickly does not guarantee that veterans get the benefits they have earned through their service and sacrifice. More bad rating decisions done more quickly may lower the backlog—at least for a time—but that is certainly not reform or progress.

To truly reform and transform the system, VBA must remain focused on the underlying problems causing the backlog: a lack of quality, accuracy and consistency in how VBA develops and adjudicates claims for benefits. So, whenever we hear the word “backlog,” or talk about “reducing the backlog,” we want to first hear the words quality, accuracy and consistency.

For these reasons, DAV has been working with a growing coalition of veterans and military organizations to build consensus on how best to reform the claims processing system, not just reduce the backlog. One of our first goals is redefining success from “Reducing the Backlog” to “Getting It Done Right the First Time.” We are confident that a system focused on quality, accuracy and consistency first, if properly built upon a modern IT infrastructure with optimized business processes, will lead to faster processing times and a lasting reduction and elimination of the backlog as a result.

With that as our goal, we want to recognize the efforts that VBA has underway this year which include over three dozen initiatives designed to transform the claims processing system from today’s archaic paper-based system to a modern, IT-centric process. As I said earlier, we are pleased that VBA has recognized the seriousness of the problems and reached out to the VSO community to inform us of their efforts and seek our input and support. We believe that VBA is headed down the right path; however, we remain concerned about whether they will get to the end without effective leadership and proper oversight by Congress.

Unfortunately, today—nearly 1½ years into this Administration—there is still no Under Secretary for Benefits in place, or even nominated. No large organization can be expected to operate at peak efficiency, much less dramatically transform itself, without a chief executive in place to lead that change. The time is long overdue for a new Under Secretary to be named and we call on the Administration to swiftly do just that. VBA must also complete other pending management changes so that they have a permanent leadership team to provide stability as they modernize and optimize the claims processing system.

Mr. Chairman, with 1.2 million members, all of whom are wartime disabled veterans, DAV is deeply invested in helping VBA succeed in reforming their system for evaluating and approving claims for disability compensation and other veterans benefits. Last year, our 240 National Service Officers and 34 Transition Service Officers represented 250,000 veterans and their families—free of charge—in their claims for VA benefits, helping them receive \$4.5 billion in new and retroactive benefits to which they were entitled under the law. Other VSOs provide similar services to hundreds of thousands more veterans, their families and survivors.

I say all this so that the Subcommittee understands that VSOs are more than just knowledgeable and interested observers in the benefit claims process, we are an ac-

tive and integral component of the system itself. So while we applaud VBA for their new openness and outreach to the VSO community, we are becoming increasingly concerned that they are not fully integrating us into their reform efforts from the beginning.

Over the past year, VBA has launched dozens of new pilot programs at regional offices around the country. In most cases, the pilots were developed without any input from VSOs, either nationally or locally. This is a mistake for a number of reasons: not only do we bring vast experience and expertise about claims processing, but our local and national VSO service officers hold power of attorney (POA) for hundreds of thousands of veterans and their families. Moreover, we make VBA's job easier by helping veterans prepare and submit better claims, thereby requiring less time for VBA employees to develop and adjudicate the claims. We would urge VBA to integrate us into their planning for new initiatives and pilots from the beginning so that we can work together to reform this system for the benefit of all veterans.

VBA currently has three dozen initiatives underway to help them modernize the claims approval process. Several of them, such as the pilots in Little Rock and Providence, as well as the Fully Developed Claim and Individual Claimant Checklist were Congressionally mandated in Public Law 110-389. Others, such as the Quick Pay Disabilities pilot in St. Petersburg, the Rapid Evaluation of Veterans' Claims pilot in Atlanta and the Case Management pilot in Pittsburgh were initiated by VBA regional offices with central office approval. VBA's Innovation Initiative also produced 10 winners developed and submitted from regional offices, eight of which are actively being implemented. There are also eight "quick hit" ideas that were developed at a Regional Directors Workshop this spring, including pilots testing phone development and a walk-in claims rating program. Many other ideas that DAV and others have been promoting, including the increased use of private medical evidence and interim ratings, are also currently being tested in the field.

Although we believe that VBA is moving in the right direction, we do have concerns about how all of this experimentation will come together to optimize VBA's claims processing system. It is not enough just to test ideas through pilot programs or studies; there must be a coherent and coordinated plan to evaluate and integrate the results of all this experimentation. We urge this Subcommittee to maintain the aggressive oversight demonstrated throughout this Congress, and would offer a few comments on a couple of these programs.

In the past month, VBA rolled out the Fully Developed Claim (FDC) program nationally. DAV has long advocated for exactly this type of program to eliminate time and resource-wasting over development. However, the recent directives implementing this program nationally require a couple of modifications to fully protect the rights of veterans. Under the normal claim processing system, a veteran can file an informal claim in order to protect the effective date for which they may be entitled to disability compensation; they are then provided up to 12 months to complete the application. However, if a veteran chooses to submit a claim under the FDC program, there is no mechanism to allow them to submit such an informal claim. As such, veterans would effectively lose the compensation due to them during the time they spent assembling their claim, forcing them to choose between a quicker decision under FDC or an earlier effective date under the regular process. This in turn would likely create a disincentive for filing claims under the FDC program, increasing VBA's workload. We have discussed this issue with VBA and Congressman Joe Donnelly and urge the Subcommittee to work with them to allow veterans to file informal claims protecting their effective dates in the FDC program.

Another issue of concern in the FDC program relates to the waiver veterans must sign to allow VBA to move forward in processing their claim without having to send VCAA ("Veterans Claims Assistance Act") notification letters. If VBA later determines that the claim filed as "fully developed" no longer meets that criteria, they can exclude it from the FDC program and move it back into the regular claims processing queue. However, under the rules sent out by VBA, they would not then have a duty to then notify veterans of that change, nor inform them of their VCAA rights. While it make sense for veterans to waive VBA's requirement to perform some VCAA duties in exchange for quicker decisions under the FDC program, if the veteran no longer benefits from participation in that program, it is only logical that their full VCAA rights be restored.

I would also like to share a concern about the implementation of the pilot program creating standardized templates for private medical evidence underway at the Pittsburgh RO. DAV strongly supports this initiative and believes it can play a significant role in helping to eliminate unnecessary and duplicative VHA exams, which result in the loss of time and resources for both VBA and veterans. VBA has historically taken a dim view of private medical evidence due to the possibility of fraud. While no one can provide a 100 percent guarantee against the possibility that some

doctors, or even some veterans, may seek to submit falsified private medical evidence, that must not result in unnecessary obstacles to the receipt and use of private medical evidence in making rating decisions. Just as in any other application or submission to VA, or to any government agency, there exist methods to detect and punish such fraud. As they implement the private medical template pilot program in Pittsburgh, we encourage VBA to take a reasonable approach for receiving, accepting and evaluating private medical evidence without creating restrictive rules to unrealistically eliminate any possibility of fraud.

In another new initiative, VBA is seeking to expand and encourage the use of its existing authority to assign interim ratings when there is sufficient evidence to establish a compensable service-connected condition for one or more contentions. The expanded use of interim ratings will more quickly provide many service-disabled veterans with financial support and access to VA health care and other benefits, while allowing further development of any remaining contentions in the normal development and adjudication process. DAV and other VSOs fully support this initiative and urge the Subcommittee to do all it can to encourage VBA to move in this direction.

Perhaps most important to VBA's reform and modernization is the ongoing development of several new IT systems—particularly the Veterans Benefits Management System (VBMS) and the Veterans Relationship Manager (VRM) to manage work flow and provide greater access to veterans and VSOs. Over the past 6 months, VBA has accelerated the development of the VBMS, and just completed prototype development of what was called the Virtual Regional Office (VRO) located in Baltimore.

While VBA provided several briefings to DAV and other VSOs on these IT programs, we are concerned that they have not sufficiently sought our input nor considered the role of our service officers during the development of the VBMS system. When they first unveiled their plans for the VBMS, we were assured that service organizations and service officers would be involved in helping to develop this system. Regrettably, despite these assurances and public invitations to observe and participate in the VRO phase of the VBMS development, the VRO in Baltimore was completed without any VSO observation, participation or input.

VBA has since reached out to DAV and several other VSOs to report on their progress and solicit out comments and we appreciate this opportunity. However, it is imperative that input from VSOs is regularly and comprehensively integrated into the further development of the VBMS, as well as the VRM. As stated earlier, we not only have relevant expertise and perspectives that will benefit the development of these IT systems, we are also direct participants in the claims processing system and must be integrated into their planning. We would encourage VBA to develop regular and ongoing roles for VSO participation and input into future VBMS development.

DAV is also concerned that in the rush to meet self-imposed, aggressive deadlines for piloting and rolling out the VBMS, VBA could end up with an insufficiently robust IT infrastructure. Despite the fact that a modern, paperless claims processing system is at least a decade overdue at VBA, it remains just as imperative today that they "get this done right the first time." For example, in recent discussions with VBA officials, we were told that rules-based decision support will not be a core component in developing the VBMS system, but that it will be a component to be added on later, perhaps years later after the full national rollout. It has long been assumed by DAV and many others that the VBMS would be designed to take maximum advantage of the artificial intelligence offered by modern IT in order to provide decision support to VBA's claims adjudicators. We would urge this Subcommittee to further and fully explore this issue with VBA and suggest that it might be helpful to have an independent, outside, expert review of the VBMS system while it is still early in the development phase.

We are also concerned about how VBA intends to handle legacy paper claims within the new VBMS environment. While VBA is committed to going all-paperless for every new claim submitted once the VBMS is up and running, it is not yet clear whether they also intend to convert all re-opened claims to paperless, digital files. DAV would be concerned if VBA were to develop a separate legacy system, and thus create two claims processing systems: one that is paperless for new claims and one using paper C-files for legacy claims. Given the volume of re-opened and appealed claims each year, VBA can expect legacy files to be re-opened for decades to come. Would VBA employees have to learn and master two claims processing systems: one that is paperless and the other at least partially paper-based? Wouldn't this be detrimental to quality, accuracy and consistency? We would urge this Subcommittee to ensure that VBA builds the VBMS as an all-paperless program. The VBMS system must include as a core capacity the ability to convert all legacy claims to the new digital environment at its rollout.

Finally, we remain concerned about whether the VBMS development is being driven primarily to speed processing or to ensure quality and accurate decisions. As we mentioned above, rules-based decision support is a key component of quality control. In addition, the VBMS must have comprehensive quality control built in, as well as sufficient business practices established, to ensure that there is real-time, in-process quality control, robust data collection and analysis and continuous process improvements. We urge this Subcommittee and Congress to continue providing VBA with sufficient resources as well as sufficient time to get this job done right, not just quickly.

Mr. Chairman, in assessing the "State of the VBA," we want to properly recognize the important steps they have been taken over the past year. VBA's new openness is encouraging; their candid assessment of the problems they face is refreshing; and their commitment to exploring new solutions is commendable. However, even with this promising start, much work remains to turn this promise into results.

VBA has established an aggressive strategy and schedule for reforming the benefits claims processing system. In order to achieve lasting success, VA must first and foremost focus on quality and accuracy ahead of simply reducing the backlog. VBA must modernize their IT infrastructure and optimize business processes, which will require strong and effective leadership, something they cannot fully realize until there is a new Under Secretary in place. Finally, we firmly believe that VBA cannot be completely successful unless they truly seek and realize a mutually beneficial partnership with the VSO community.

Mr. Chairman, we want to commend you and this Subcommittee for all that you have done to help reform VBA and the claims processing system. It will take your continued leadership over the next several years to ensure that the many promising initiatives underway finally result in a modern, transparent and effective system for delivering benefits to veterans in a timely manner.

Thank you again for the opportunity to present DAV's testimony today and I would be pleased to answer any questions that the Subcommittee may have.

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

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to express the views of the nearly 3 million members of The American Legion on the current state of the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs (VA). VBA stands at a crossroads in the transition from the 20th century paper system of benefits and the 21st century electronic environment. This transformation occurs in the midst of a difficult environment, yet VA must maintain operations through this period without letting veterans slip through the cracks. The country is presently engaged in wartime operations in the Middle East and South-Central Asia, and the after effects of these wars, as well as previous wars, are still being felt by great numbers of veterans. VBA has, to be fair, made many strides forward in recent history, but there are still many areas that must be addressed. Simply changing the tools without correction of longstanding institutional issues cannot be construed as effective. VA must continue to work to erase the errors of the past if a new model more beneficial to the men and women who have served this Nation is to be achieved.

It is easy to note the areas in which VBA has been deficient not merely over the last few years, but as an institution for long periods of their operation. Many of these complaints are not new, but have been the focus of those devoted to advancing the cause of veterans' benefits for decades. VBA struggles with the quality of work and timeliness, not only in the adjudication of claims but also in the implementation of internal regulatory changes and those directed by Congress. Additionally, accuracy of the work produced suffers under the pressure to move the high volume of claims. Criticism has been justly leveled at VBA, and they have struggled to produce satisfactory answers. There are clearly areas for improvement.

Secretary Shinseki has stated an admirable yet challenging goal for VA to achieve timeliness of no more than 125 days for any initial claim as well as an accuracy rating of 98 percent for those claims processed. This is no easy task, and VA must be mindful of the challenges faced in achieving such a task. VBA must address these factors if they are truly going to be able to meet these goals by the stated deadline of 2015.

QUALITY OF WORK

On March 12, 2009 the VA's Office of the Inspector General (VAOIG) issued a report (Report No. 08-02073-96) entitled "Audit of Veterans Benefits Administration Compensation Rating Accuracy and Consistency Reviews". This report detailed numerous flaws in the current implementation of VA's internal STAR system of quality review and offered some key criticisms.

Some of the more troubling findings included:

VBA's STAR process did not effectively identify and report errors in compensation claim rating decisions. VBA identified a national compensation claim rating accuracy of 87 percent for the 12-month period ending February 2008. We projected that VBA officials understated the error rate by about 10 percent, which equates to approximately 88,000 additional claims where veterans' monthly benefits may be incorrect. In total, we projected about 77 percent (approximately 679,000) of the almost 882,000 claims completed were accurate for the 12-month period ending February 2008. The 87 percent rate is not comparable to the accuracy rate VBA reports in the Performance and Accountability Report because that rate includes pension claims. Further, this accuracy rate only included errors that affected a veteran's benefits. STAR identifies, but does not report, other errors related to the rating decision's documentation, notification, and administration.

To reiterate American Legion testimony on these findings, 203,000 potentially incorrect claims is a troubling number. Further troubling is the inaccuracy of VA's system at reporting its own errors. Without external observation, such as this audit by VAOIG, such errors may never have come to light, and an accurate picture of the overall flaws in the disability system may never have been recorded.

Furthermore:

VBA officials planned to conduct 22 reviews in FY 2008 consisting of 20 grant/denial rate and 2 evaluation reviews. However, they only initiated two grant/denial rate reviews and these were not completed until December 2008. Furthermore, VBA officials did not initiate either of the two planned evaluation reviews to analyze and improve the consistency of disability compensation ratings and to reduce the variances between states.

Even where problem areas or the potential for problem areas to develop are identified, VA is not following up on their own projected plans for analysis. Regardless of the potential of STAR, if it is not implemented as intended, it cannot hope to be an effective tool for correction. The exertion of outside pressure would seem essential to enforcing the application of the procedures in place.

VAOIG concluded:

Without an effective and reliable quality assurance program, VBA leadership cannot adequately monitor performance to make necessary program improvements and ensure veterans receive accurate ratings. Further, without implementing an effective rating consistency program, VBA officials cannot successfully assess or prioritize the improvements needed for claim rating consistency.

In order to rectify the problems existing within STAR, The American Legion proposed that VA could make improvements by implementing a three step process for change.

1. Develop a system to compile the results nationwide of the errors found in STAR evaluations. When an error is discovered a record must be kept of that error. However, currently, there appears to be no systematic method to track these errors. This data could be critical to finding patterns, whether on an individual, on a Regional Office (RO) level, or nationally across the scope of VA operations. If this information is indeed gathered, it does not appear to be used in any fashion for analysis to detect trends which could indicate larger, systemic problems within VA. If this is coupled with data gathered on errors at the lower levels from the Board of Veterans Appeals (BVA) and the Appeals Management Center (AMC), VA would be in possession of an excellent tool to assess their quality overall with real details that would indicate the greatest problem areas.

It is not enough to know what VA's accuracy rate is across the system. VA must also know where their greatest areas of concern are in order to determine the areas that could be addressed to provide the most efficient and effective use of resources to correct those problems.

2. Utilize the data and patterns gathered from the compilation system mentioned above to plan and implement a program of training. Adequate and effective

training has been a key concern noted often in the system of VA adjudication of claims. This data would give the VA the tool they need to see where their employees need training most, and to craft an effective training schedule to maximize the training resources they have. Future training would not be generalized and rote as is currently the case, but would instead be targeted to fix the greatest problems. This would be a method to ensure that what training resources VA has would be used to the greatest possible effect.

3. Augment the STAR system for accuracy with outside oversight to ensure the effectiveness of the program. As mentioned above, one of the complaints about the current implementation of the system is a lack of means to determine if the errors highlighted have been followed up. Third party oversight offers the opportunity to provide impartial and critical follow up to ensure compliance. External oversight has long been an important component that The American Legion has advocated.

The American Legion continues to advocate for the compilation of common errors from BVA and AMC remands and grants in the past. If errors are consistently made in the Regional Offices only to be corrected by VA later in the benefits process without feedback to the Regional Office, they will continue at the regional level where the initial errors are being made. This concept also applies to the systemic review nationwide of claims by STAR. If the error reporting of all three entities is combined, it would constitute an even more effective pool of data on deficient areas to enhance VA's understanding of their own inadequacies.

If VBA is to achieve the secondary goal of Secretary Shinseki's bold vision for VA, that of 98 percent accuracy, it must start with dedicated oversight and diligent analysis of existing patterns of error.

TIMELINESS OF VA

VBA struggles not only with reaching timeliness goals on their claims, but also with achieving timeliness on tasks such as mandated progress reports and the implementation of new regulations.

The stated goal of 125 days for the completion of claims is an onerous task. The current average for the completion of new claims within VA stands at over 160 days. It is important to be mindful that this is not the top end of claims completion, but strictly an *average* time for processing. While improving their timeliness, VBA must ensure that in their haste to process these claims, they are not missing necessary details that contribute to an overall error rate estimated by VAOIG at nearly one quarter of all claims processed. The error rate on American Legion represented claims in Regional Offices is even higher. During Quality Review visits conducted by The American Legion which encompass a weeklong review of operations in Regional Offices, VBA's error rate often reaches a third of all claims evaluated.

In short, VBA must aim to not only speed up their work, but make that work more accurate and more efficient. Currently, electronic tools in development to share records and move claims through processing will help with this task. It will be important to ensure that the developed electronic tools do not merely repeat the current system of processing claims, but take full advantage of the enhancements offered by processing in an electronic environment.

Recent legislation passed by Congress directed VBA to increase the usage of measures already present to expedite claims such as the ability to grant interim ratings and to grant individual issues as the data supports it while deferring issues requiring more necessary development to later decisions. This addresses one of the problems inherent in the speed of processing. By granting partial amounts of a claim, VBA enables veterans to gain immediate access to the excellent health care available to treat their service connected disabilities and gives them at least partial access to funds to supplement their earning power diminished by these disabilities. VBA however, has been slow in implementing these types of ratings. It is hoped that the tools provided by new electronic measures will make the separation of these issues easier on VA and enable these ratings to go forward.

All of the good intentions of VA and of Congress to improve the system for veterans are for naught if the measures are not implemented. In testimony regarding the implementation of Public Law 110-389, the Veterans' Benefits Improvement Act of 2008, VA acknowledged the many areas in which they were behind schedule in addressing needed studies and publishing final regulations to implement the changes in laws and procedures. Needed details on analysis of the work credit system, and a lack of implementation of a regulatory change meant to assist family members of a deceased veteran in prosecuting their claim are far behind the established deadlines.

This does not address two glaring areas in which veterans are still experiencing substantial delays in the processing of their claims: changes to VA policy regarding

the confirmation of Posttraumatic Stress Disorder (PTSD) stressors; and, the establishment of three new presumptive conditions related to the herbicide Agent Orange in Vietnam.

Veterans' groups rightly praised VA for moving forward with a regulatory change in the confirmation of stressors for PTSD for veterans serving in combat zones. Notwithstanding that The American Legion expressed concerns with the proposed regulation's reliance solely on VA diagnoses of PTSD as opposed to private physicians because diagnoses by private physicians are acceptable for any other disorder on the rating schedule. Nevertheless, the overall anticipated impact of this regulatory change was lauded as a great step forward in helping veterans in need.

Often one of the most difficult burdens in PTSD cases, on VA and veterans alike, is the confirmation of stressor incidents in combat zones, where record keeping is spotty at best and clear evidence can be difficult to unearth. Existing regulations regarding incidents in combat have long recognized the difficulties of keeping track of details. VA's proposed regulation will expand that definition for stressor incidents to the entire combat zone, which is important as the majority of servicemembers in theater do not have traditional combat occupations, yet still face many of the same hazards and threats. Without specific combat decorations, often unavailable to non-combat military occupational specialties, veterans face an uphill battle proving that the traumatic events happened.

It is hard to see how VA can meet the new timeliness goal when VBA has to expend more time and resources to decide PTSD claims than almost every other type of claim. Development work on cases such as these can take many long months and, often enough, after these extensive efforts, VA ends up denying many claims that are truly meritorious simply because no evidence exists to corroborate the stressful events. The proposed regulation would help by greatly reducing unnecessary development and allowing VBA to move these cases more quickly to the decision phase. Generally, VA is required to publish a final regulation within 90 days from the publishing of a proposed regulation, yet many months have passed since this deadline and veterans are still waiting. VA must move with greater speed to meet the needs of the veterans.

Perhaps more frustrating is the ongoing delays surrounding VA's addition of three new presumptive conditions associated with Agent Orange. Under the provisions provided for in the Agent Orange Act of 1991, Secretary Shinseki announced last October that VA would add three new conditions: ischemic heart disease, Parkinson's disease, and B-cell leukemias to the presumptive list. Despite lengthy delays waiting for even a proposed regulation, in late March the proposed regulation was published in the Federal Register along with a notation of a decreased period for public comment recognizing the need to move forward with this important change. Even so, the normal deadline of 90 days is rapidly approaching, and will expire before the end of this month. There is little indication that this final regulation will meet this deadline, and veterans must once again wait for long denied justice.

Every day the Legion fields dozens of calls from concerned veterans asking what progress is being made on the final implementation of these regulations. As must be the case with other veterans' organizations, the only answer we can give these veterans is that VA assures us that they are working on it, and we must wait and see.

These delays cost veterans in unseen ways. While it is easy to say there will be no net impact as veterans will be "back paid" once VA finally adjudicates their claims, while they wait for service connection, they must also wait for health care for these conditions. The effects of heart disease and Parkinson's when untreated can be devastating. VA must act to move forward on this and grant these deserving veterans their claims with all due haste so they can receive the preventive health care they are entitled to. The time for delays has long since passed, and this must be a priority for resolution, with no more obstacles thrown in the way of these veterans.

AREAS OF PROMISE

VBA should not be only criticized however. There are areas of progress that represent encouragement and hope that veterans are going to receive their benefits from a more functional system. Whether it is simple, internal changes to help certain Vietnam era Navy veterans by establishing a Brown Water Database, or a myriad of pilot programs and development of the electronic system for the next generation of claim processing, VA is moving forward. Not least of these changes is a renewed willingness to work with the front line soldiers in the battle for veterans' benefits, the Veterans Service Organizations (VSOs), who daily work to obtain deserved benefits for veterans.

VA currently estimates approximately 38 ongoing pilot programs are aimed at understanding and improving operations in the benefits system. With so many irons in the fire, oversight and accountability is paramount. A tracking system to monitor lessons learned and provide transparent analysis of benefits of these pilots is important. Furthermore, VA must continue to involve the users of their systems, veterans and the service organizations who represent those veterans, in the early stages of these programs to identify areas of concern that might not otherwise be identified until far too late in the process to allow for easy correction.

In Little Rock, Arkansas, VA ran a pilot examining changes to the current CPI model of processing claims. The pilot covered applications of Lean Six Sigma techniques from private sector businesses and working in team based, pod structures to facilitate better communications up and down the chain of claims processing. The American Legion believes that when VA workers see only the small, component parts of a claim, they lose sight of the whole picture. Without the perspective offered by the whole picture, the impact of simple procedural errors can be lost and yet with a more complete picture of the entire claims process an employee can better see the impact of the necessary actions in the claim.

Indications gleaned from American Legion visits to this pilot were positive and we hope that beneficial lessons were learned.

In Providence, Rhode Island, VBA has been working with a program where the office operates in an entirely electronic environment. Rather than shuffling through papers and books, the employees have access to all the necessary tools and information right on their computers, taking advantage of electronic options like enhanced search techniques and information sharing. This will be a key component in the operating environment VA envisions for their future business model. This is also a critical lesson that VA seems to be implementing. It is not enough to change the tools and continue to operate under old models. The old models carry with them inherent flaws. When new tools such as e-processing are examined, VA is hopefully utilizing the unique capabilities those tools offer in a different manner than the traditional paper based models.

In Pittsburgh, American Legion staff recently returned from an examination of several ongoing pilot programs. Chief among these programs was the Case Management Development Pilot. This pilot aims to improve public contact with the veteran. Communications from VA have traditionally been more frustrating than helpful for veterans. The Veterans Claims Assistance Act (VCAA) letters have long been noted as being nearly incomprehensible. Now, public contact teams from VA follow up by phone with veterans to ensure that the veterans understand what VA is asking for, and as important, that VA understands what veterans are stating and asking for. Putting a personal face on both the VA and the veteran is a two way street that helps both sides of the equation.

VSOs such as The American Legion are eager to help VA with this public contact and ensure that the veteran also understands the claims from the point of view of an advocate as opposed to a neutral party such as VA. Furthermore, service officers of The American Legion and other organizations can help share the workload with VA. The ultimate goal is to help veterans and when VA and VSOs work in concert with each other, there is great benefit that can be provided to veterans. We have expressed concerns to VA regarding a greater role that VSOs could play in this program in contacting veterans, and we are hopeful that we can work to improve that relationship.

These and other pilots have benefited from close involvement between VA and the front line users of the benefits system, the VSOs who represent veterans in their claims. With the exception of a recent electronic claim processing pilot in Baltimore, VA has worked to involve VSOs at an early level in the proceedings of pilots, which benefits both sides. Even VA itself has admitted to challenges faced by an increasingly inexperienced workforce. This is not meant to be a criticism. The benefits system can take many years to master, and yet if VA were not hiring new employees, we would face an even greater gap as the most experienced employees retired. It must be an ongoing process.

However, many service officers have many years of experience, and have recognized critical failure and success points within the system during those years. A price cannot be placed on that kind of experience. When those insights are offered early on in the process, sometimes overlooked errors can be corrected early and not late in the process, saving time. Efficiency is what will help VA move forward. VSOs offer an extra set of eyes that can point out things that might otherwise be missed. These are systems that will be used by both VA and VSO alike, and designing them with both end users in mind will only benefit the greater end.

All of these programs will ultimately feed into the Veterans Benefits Management System (VBMS) which will be the operating system of VA's future. While VBMS will

not begin its first pilot until November of this year, many of the early indications are that this will be helpful to VA and veteran alike. While final details of the system are not available, it should hopefully include elements which will enhance file sharing electronically and make finding necessary information easier. Furthermore, the ability to electronically organize and display key information should speed processing time. The ability to separate issues and rapidly process those that are ready for decisions—while saving more difficult issues for more lengthy development—can lead to exactly the sort of time saving measures that get the benefits to the veterans in a more timely manner.

Electronic measures cannot be seen as a cure all, though. Institutional attitudes that have placed a greater priority on “moving widgets” than recognizing the importance and impact of the claims on individual veterans’ lives must be overcome. Though VA states that quality of work is an equal component to timeliness, the lack of transparency about accuracy statistics as compared to statistics of claims processed and timeliness belies this and must be improved. It does veterans no good to process claims more rapidly if they are still being processed poorly and with a lack of attention to detail. VA must be more forthcoming on how they intend to show their worker and management base that they are measuring them not solely on how many units they move per month, but on the fact that those claims are done without errors that will negatively impact veterans.

The importance of eliminating errors cannot be underestimated. A veteran’s only option to correct mistakes made by VA is to appeal the claim. When the public sees headlines about how a veteran is waiting years for their claim to be processed by VA this is almost always indicative of a claim that is working its way through the appeals process. Errors made at a Regional Office take years to correct, not hours. This can be changed with a greater attention to detail. Quick fixes, where VA acknowledges a procedural error that is costing a veteran benefits and corrects it on the spot, are fixes that not only save the veteran years of delays, they save the VA years of work. Get it done right the first time and there is no need to clog the system with second, third and fourth times.

CONCLUSIONS

Because of the transformation that VBA is going through, there is great potential to move forward. Drawing on positive lessons learned, benefiting from creative and dedicated minds to change the architecture of the system to a more effective model, exploiting the opportunities presented by updated, modern technology, VBA has the potential to truly improve into a veterans’ benefits system that veterans can rely on and trust. Provided VA maintains the present attitude of acknowledging mistakes and diligently working to correct them, as well as using individual initiative to creatively improve the process, there is hope that the mistakes of the past can be forgotten and that the system for tomorrow can be the great system that the veterans of America deserve.

VBA will be most effective in this transformation if they continue to engage and work with all stakeholders in the claims process. It is not enough to examine their problems internally. There is good advice to be taken from lawmakers, such as those on this committee, who are dedicated to ensuring that veterans are getting the benefits that the government intends for them to receive; or the VSOs who work in the sometimes frustrating system every day and see firsthand the impact of those errors on veterans’ lives. Perhaps most importantly, VA must strive to repair their image with the veterans themselves. Too much trust has been lost.

Veterans must be able to look to their government to uphold its end of a bargain begun when a new recruit first swears the oath to uphold and defend the Constitution of the United States. In the military, a veteran learns the importance of “having the back” of their allies and comrades. VA must have the back of the veterans who have served. VA must work hard to win back this trust, damaged by years of perceptions of broken promises and an unfeeling bureaucracy that treats them like numbers and not people.

To be fair, there have been promising steps forward by this Secretary and administration of VA to own up to their errors, to recognize where they are failing the veterans of this country and to accept the responsibility to repair the damaged trust and the damaged system. As the largest veterans’ advocacy organization in the United States, The American Legion believes that this country is and should be capable of providing the best benefits to those who sacrifice so much for their country. We are encouraged by this movement forward by VA and look forward to a continued working relationship with them to ensure that momentum is not lost and that this transformation to a 21st Century system of benefits is truly a great leap forward for veterans.

The American Legion stands ready to answer any questions of this Subcommittee and thanks you again for this opportunity to provide testimony on behalf of our members.

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**Prepared Statement of Richard Paul Cohen, Executive Director,
National Organization of Veterans' Advocates, Inc.**

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to present the views of the National Organization of Veterans' Advocates, Inc ("NOVA") concerning the state of the Veterans Benefits Administration ("VBA").

NOVA is a not-for-profit § 501(c)(6) educational organization incorporated in 1993. Its primary purpose and mission is dedicated to train and assist attorneys and non-attorney practitioners who represent veterans, surviving spouses, and dependents before the Department of Veterans Affairs ("VA"), the Court of Appeals for Veterans Claims ("CAVC"), and the United States Court of Appeals for the Federal Circuit ("Federal Circuit").

NOVA has written amicus briefs on behalf of claimants before the CAVC, the Federal Circuit and the Supreme Court of the United States of America. The CAVC recognized NOVA's work on behalf of veterans when it awarded the Hart T. Mankin Distinguished Service Award to NOVA in 2000. The positions stated in this testimony have been approved by NOVA's Board of Directors and represent the shared experiences of NOVA's members as well as my own eighteen-year experience representing claimants before the VBA.

THE VBA HAS OBVIOUS PROBLEMS

NOVA's previous testimony and reports from the Department of Veterans Affairs Office of Inspector General have detailed the VBA's problems including:

- an antiquated and insecure paper file;
- inadequately trained employees;
- ineffective supervision;
- inadequate metrics leading to inability to determine whether work is performed correctly;
- work credit system which induces employees to rate claims which have not been properly developed;
- an institution which is more concerned with finding fraudulent claims than timely granting meritorious claims; and
- an institution which is so out of control that it takes years to promulgate needed regulations and which is incapable of effectively communicating policy to its employees.

VBA, under pressure from Congress and from various stakeholders, has recently initiated pilot projects incorporating techniques intended to solve, in isolation, only one problem at a time. Still the veterans claims adjudication system limps along each month incorrectly deciding claims and thereby adding thousands of appeals to the system and adding to the frustrations of veterans and other claimants. During the past year, from May 15, 2009 to May 15, 2010, the VBA's Monday Morning Workload Reports show an 11 percent increase in pending appeals from 171,716 to 190,778. <http://www.vba.va.gov/REPORTS/mmwr/historical/2009/index.asp>; <http://www.vba.va.gov/REPORTS/mmwr/index.asp>.

Apparently, as a result of the VBA's awareness that improperly developed claims lead to erroneous decisions and that, in the rating process, the most time is consumed by claim development, the VBA continues to try different plans to generate fully developed claims prior to rating. Remarkably, the VBA has never advocated for veterans to have the right to hire a lawyer, for pay, during the time that the claim is initially filed and developed to assist in the claim development.

The most recent annual report of the Chairman of the Board of Veterans' Appeals shows the effect of having lawyer representation of veterans and their families, following enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006, P.L. 109-461. In FY 2009, those claimants who had attorney representation at the BVA received a larger percentage of favorable results than did those without attorney representation and a larger percentage of favorable results than did those who were represented by VSOs.

FY 2009						
Representation	Allowed		Remanded		Positive Outcome	
	No.	%	No.	%	No.	%
VSO's Overall	7,688	24.8	11,714	37.8	19,402	62.6
<i>American Legion</i>	2,100	23.5	3,469	38.8	5,569	62.3
<i>Amvets</i>	65	25.6	91	35.8	156	61.4
<i>DAV</i>	3,853	25.5	5,607	37.1	9,460	62.6
<i>MOPH</i>	179	31.7	191	33.8	370	65.4
<i>PVA</i>	118	28.7	156	38.0	274	66.6
<i>VFW</i>	1,138	24.2	1,746	37.2	2,884	61.3
<i>VVA</i>	235	23.8	454	46.0	689	69.8
State Svs. Org	1,975	24.1	2,802	34.2	4,777	58.3
Attorney	853	22.7	1,743	46.4	2,596	69.0
Agents	21	23.1	32	35.2	53	58.2
Other Rep	304	28.1	357	33.1	661	61.2
No Rep	886	18.7	1,554	32.9	2,440	51.6
Total	11,727	24.0	18,202	37.3	29,929	61.3

In addition, a recent law review article published in *The Federal Circuit Bar Journal* advances the proposition that denying veterans the right to hire a lawyer at the outset of a claim "may cost a single veteran millions of dollars" Benjamin W. Wright, "The Potential Repercussions of Denying Disabled Veterans the Freedom to Hire an Attorney", 19 *FCBJ* 433,435 (No. 3, 2009).

Not only has the VA been disseminating mixed messages by recognizing the difficulty in developing claims yet not attempting to obtain attorney assistance in developing claims, but the VA, which asserts that it wants to assist veterans and put veterans first, is now requesting legislation which is harmful to veterans. Just a few weeks ago, the Secretary requested introduction of a bill which the VA drafted and titled the "Veterans Benefits Programs Improvement Act of 2010" which will be harmful to veterans and the claims which they file. Among the provisions which have the potential to hurt veterans are those which would allow the VA to impose a stay on the adjudication of a claim without obtaining prior permission from any court, section 201; cutting in half the time allotted for a veteran to file an appeal, section 202; eliminating the benefit of equitable tolling for the late filing of a BVA appeal and making the timely filing of such an appeal jurisdictional, section 203; eliminating the requirement that decisions by the BVA must be supported by adequate reasons and bases, section 206; and radically changing the law of Equal Access to Justice Act ("EAJA") fees by requiring a veteran to be awarded monetary or other benefits, in court or on remand by the RO, before the veteran is entitled to EAJA fees, section 207.

SOLUTIONS REQUIRE AN ORGANIZATIONAL OVERHAUL

During the Claim Summit, conducted by the House Committee on Veterans' Affairs on March 18, 2010, NOVA focused on three primary deficiencies which must be corrected by the VA, simultaneously, if the system is to be fixed. They are lack of a well defined business model and plan, lack of adequately trained staff and administrators to carry out the plan, and lack of accurate and reliable metrics to monitor performance.

NOVA has also previously testified that there are too many levels of management in the VA's organizational chart which has led to institutional paralysis or the inability to act expeditiously and properly, and which has led to mixed messages coming out of the VA.

In addition to the VBA's need for an effective business plan, adequate training and supervision, accurate metrics, and a streamlined organization, the VBA must become user friendly and must consider the needs and limitations of veterans in order to efficiently and accurately assist veterans. Veterans must be given all the help they need and desire in processing their claims, including the right to hire an attorney. Additional impediments should not be imposed such as shortening a veteran's time to appeal unfavorable ratings. The VA should not deprive veterans of a full explanation of the decisions made regarding their claims. Rather, the VA should operate under the assumption that veterans generally file meritorious claims which should be fully and quickly granted. Such a change in outlook would naturally lead to a triage system for claims management which would dramatically cut backlogs of initial claims and appeals.

Veterans and their families must not be overburdened by useless paperwork and redundant, undecipherable requests for information. Ill and impaired veterans should not be required to initiate their claims with more than a simple, one page, claim form. They should be given face to face interviews and the right to participate in hearings and review claim files without the need to travel four or more hours to participate in the adjudication of their claims. Rather than the present system containing 57 Regional Offices which requires many veterans to travel large distances, a veteran friendly system would disperse most of the functions of the present Regional Offices to locations in or in close proximity of each VA Hospital, and Vet Center. Decentralizing the VA would allow, interviewing, form completion and evidence development, and hearings to be located close to the claimant's home, while centralized state offices would house the rating boards. Active veteran participation would tend to result in more complete and accurate claim development. Obviously, the previously discussed recommendation to decentralize the VA will not work without a 20 first century veterans claim system which is paperless and which allows access by veterans and their representatives. Also, the VA will never deserve the confidence of our country and our veterans until the VA can demonstrate that claims files are tamper proof and safely stored. A somewhat analogous system has been utilized by the Social Security Administration which has a paperless file, which has multiple local offices dispersed throughout each state for taking applications, dispensing information and conducting interviews, and which has centralized offices for reviewing the evidence.

A user friendly system would begin the claim development phase by clearly and precisely requesting specific documentation from the veteran, such as a necessary DD214 or current medical records. Rather than utilizing an assembly line approach with six teams performing separate tasks, an efficient system would utilize one decision unit to handle everything from reviewing the application for completeness in predetermination through gathering the evidence and producing rating decisions. It is crucial that the combined development/adjudication unit be directed to partnering with the claimant and the claimant's representative, if the claimant is represented, to fully understand and develop the claim. If additional information is necessary, the team should issue an understandable and case specific VCAA notice, prior to any rating decision, should assist with any additional development, and then should issue the rating decision. Because most of the delay in processing claims involves development, particularly waiting for and obtaining C&P exams,¹ NOVA suggests that the VBA utilize 38 U.S.C. § 5125(a) to forego obtaining an additional exam where the record already contains an exam sufficient for rating purposes which would result in a grant of the benefit requested.

A user friendly system must grant veterans the same rights granted to all citizens, the option to hire a lawyer for assistance, if desired, from the very beginning of the proceedings. Presently, veterans who are notified of the possibility that their rating will be reduced are not permitted to hire an attorney, for a fee, to represent them even after they formally object to the notice of reduction. A veteran must wait until after his rating has actually been reduced to hire a lawyer, for a fee. Similarly, veterans who believe that an earlier denial was the result of clear and unmistakable error must prepare a request for revision without being allowed to hire a lawyer, for a fee. Not only should the veteran's right to chose to hire a lawyer be expanded, but after a lawyer or other representative is hired, neither the VBA nor the BVA should view the veteran's representative as having interests opposed to the VA's central mission of providing proper benefits to veterans and their families. Rather, the VA should partner with the claimant's representative and use informal conferences to speed claim development and to narrow the issues to be decided.

Because the present rating system is difficult for veterans to understand and for rating boards to apply, the complexity of the Rating Schedule frequently leads to erroneous decisions. It is necessary for the VA to rework the entire Schedule for Rating Disabilities contained in 38 CFR Part 4 to simplify and update the ratings.

Being mindful of the increasing number of veterans whose life is in shambles because of residuals of PTSD or TBI, in rewriting the Schedule for Rating Disabilities the VA should comply with the recommendation that ratings be designed to compensate veterans for loss of quality of life in addition to loss of earning capacity.

To control the ever increasing backlog of claims, the VBA must adequately triage claims. Increased use of presumptions would eliminate the need for development of evidence regarding the incidents of military service for all those who were deployed to a war zone regardless of their military occupational specialty or place of assignment within the war zone. Thus, for example, anyone who was deployed to a war zone, whether during WWII, Korea, Vietnam, the Gulf War or the GWOT who is subsequently diagnosed with PTSD should have the sole inquiry, during the rating stage of their claim, concentrate on the severity of their symptoms. Anyone who is diagnosed with a medical condition while on active duty and who is presently being treated for that condition should not need to prove a medical nexus between the conditions. Also, veterans who are receiving Social Security Disability or Supplemental Security Income benefits based on conditions which are related to service should be presumed to be unemployable.

Following an unfavorable rating decision, the claimant should only be required to file one request for an appeal instead of the present requirement to file both a notice of disagreement and a substantive appeal to the BVA. Thereafter, the claimant and his representative should have the right to submit further evidence or argument and to have a *denovo* review on the record, or a hearing by a Veterans Law Judge (VLJ) sitting in a BVA office close to the decentralized Regional Offices.

Adequate training, supervision and accountability are essential to create a system which fulfills the mission to correctly decide all claims. This requires reworking the organizational chart to provide reporting and direct accountability from the Regional Offices to the Secretary. Presently, there are an excessive number of layers of executives in the system which impedes the flow of knowledge and which inhibits accountability. Files do not get lost, shredded or compromised in a modern business with direct accountability. Also, in a system with direct accountability poorly trained workers are not called upon to perform functions essential to the mission. It is essential that the pressures placed on rating specialists and VLJs to turn out decisions be replaced with a system which expects the right decision to be made at all levels of the process. Veterans require a system which does not issue a decision until the claim is fully developed, which involves a true partnership between the claimant and the VA, and which rewards prompt and correct decision making. NOVA's experience confirms the findings in the 2005 report of the Office of Inspector General that the present work credit system is providing a disincentive to properly deciding claims. It should be replaced. To complement new expectations of increased accuracy and accountability it is essential that VA employees be repeatedly and adequately trained and supervised. Additionally, the high rate of VLJ decisions which are returned by the CAVC to the BVA because of inadequate reasons and bases is unacceptable and contributes to the backlog and to the reputation of "hamster wheel" adjudications.

In a system with adequate training and accountability VLJs do not write decisions which are affirmed only 20 percent of the time, on appeal to the court. To ensure efficient, convenient, timely and proper appellate review at the administrative level, the Board of Veterans' Appeals should be decentralized and dispersed within reasonable distances from the many Regional Offices. Not only should the VLJs be moved out of their fortress in Washington, D.C., but they must be reconfigured into a corps of truly independent and well trained Federal Administrative Law Judges.

Appeal from the VLJ's decision should go to the CAVC and then to the Federal Circuit. NOVA recommends two changes to the operation of the court. First, the CAVC should be granted class action jurisdiction so as to be able to remedy situations which affect a broad class of veterans. Second, the CAVC should be required to resolve all issues which are reasonably raised, except for constitutional claims if the appeals can be resolved without reaching the constitutional claims.

**Prepared Statement of Molly M. Ames, Rating Veterans Service
Representative, Veterans Benefits Administration Regional Office,
San Diego, CA, on behalf of American Federation of Government
Employees, AFL-CIO, and AFGE Veterans Affairs Council**

Chairman Hall, Ranking Member Lamborn and Members of the Subcommittee:

Thank you for the opportunity to share the perspective of the American Federation of Government Employees (AFGE) and the National Veterans Affairs Council

(VA Council), the exclusive representatives of front line employees of the Veterans Benefits Administration (VBA).

I have been employed with VBA since 1997. I currently serve as a Rating Specialist (RVSR) at VBA's San Diego Regional Office (RO). Previously, I worked as a Claims Assistant and Veterans Service Representative (VSR). AFGE and NVAC are extremely frustrated with VBA's extreme delay in implementing key provisions of P.L.110-389 that, if implemented properly, have the potential to significantly reduce the current inventory and ensure that more claims are processed correctly the first time. The following are our specific concerns and recommendations.

Listening to Front Line Employees and Their Representatives

AFGE and NVAC greatly appreciated Chairman Hall's request for our views during the drafting of the P.L.110-389 and our views on implementation of the law at recent hearings. In contrast, VBA has largely excluded AFGE and NVAC from its efforts to implement provisions of this law that directly impact the ability of front line employees to do their jobs, including skills certification, training and the work credit system. We appreciate some recent efforts by VBA to solicit input from employees and their representatives and hope this is the start of a more inclusive atmosphere.

AFGE and NVAC urge the Subcommittee to increase the frequency of its site visits to the ROs, to include opportunities for unfiltered discussions with employees and their representatives outside of the presence of management.

Addressing Hostile Work Environments

Labor-management relations at many ROs have deteriorated significantly, resulting in a work environment that is more hostile now than under the prior Administration. Terminations of both experienced employees and newly trained employees are a routine occurrence. Local AFGE officers in a number of offices have been retaliated against for permissible union activity. Management recently singled out a VSR with valuable skills and experience and refused to allow her to join her colleagues in working overtime on the claims backlog simply because of her status as a local president with official time.

The constant threat of termination places additional stress on a workforce that is struggling to comply with arbitrary increases in production requirements, despite mandatory overtime every weekend.

It is equally discouraging that VBA is unwilling to proceed with regional and local labor management forums mandated by the December 2009 White House Executive Order on labor-management forums. These forums offer a valuable opportunity for labor and management to work together on effective solutions to the claims backlog.

Quality Assurance

Section 224 of P.L. 110-389 (Section 224) provides for a third party assessment of VBA's Quality Assurance program. The input of front line employees and their representatives will be an essential component of any such assessment. Pressured RO managers have resorted to a number of techniques for hiding the size of the backlog and the number of aging claims. Our members on the front lines see how these techniques are employed on a daily basis.

Also, many managers lack sufficient experience and subject matter expertise to carry out quality assurance duties, leading to greater errors, which in turn lead to more appeals, remands and other delays.

For example, at the San Diego RO, employees who have been rating cases less than 2 years are overseeing the work of new employees, and others with less than 2 years of experience are training new RVSRs. Given the enormous, recent growth in our workforce—from 150 to 500 employees in a just a few years at the San Diego RO—a sufficient level of experience is no longer there.

VBA should implement skills certification tests for quality assurance personnel, similar to those required under P.L. 110-389 for direct supervisors of claims processors. More generally, management's performance measures should include quality of training and compliance with training requirements

Skills Certification Testing for Managers

We strongly support the requirement in the new law that managers pass the skills certification tests similar to those required of claims processing personnel. Our members regularly report that they are supervised by managers who have little or no experience performing the complex functions involved in processing disability claims, rendering their roles as mentors and trainers ineffective.

Lack of management expertise also takes a toll on workplace morale. Front line employees facing intense production pressures have to answer to supervisors who have not experienced these demands firsthand.

To date, front line employees and their representatives have had very limited involvement in the development and administration of skills certification tests, despite substantial evidence that the test does not properly measure needed skills and repeated incidence of testing problems.

All managers, including higher levels management and those involved in quality assurance, should be required to pass supervisor skills certification tests.

Training: Shortcuts and Poor Quality Remain the Norm

Our members report a wide range of deficiencies in the training provided at ROs. Most problematic: widespread training shortcuts for new and experienced employees. After new employees complete their initial classroom training, their on-the-job training at the RO is routinely cut short to rush them into production. It is also common for new employees to be kept at one station to maximize their short term productivity, thus depriving them of exposure to other skill areas that are needed for their long term productivity.

At the San Diego RO, most of the temporary 1-year hires who have been converted to permanent C&P employees have only received in-house training and are not being rotated; the lack of initial training and exposure to other teams will deprive them of critical skills in the long term.

Similarly, experienced employees are routinely deprived of their full 80 hours of annual mandatory training by pressured managers who have significant discretion as to how much training time is allowed. We receive regular reports of "training by email", where employees are permitted a fraction of the time that was officially allotted to learn a new concept, and deprived of the opportunity to learn face-to-face from experienced instructors.

RVSRs on the Appeals Team, like myself, receive valuable training from the Board of Veterans Appeals by videoconference; it provides us with an opportunity to ask questions directly of Board attorneys and judges. Unfortunately, the RVSRs on the Rating Board do not have this opportunity and are only provided in-house training from coaches with minimal experience.

Management performance measures should reflect the quality and thoroughness of training program. Also, VBA should be required to use a cadre of formally trained instructors from VA Central Office to conduct RO trainings.

Long Overdue Study of the Work Credit and Work Management Systems

Despite its assertions over the years, VBA has never produced evidence of a comprehensive reliable time and motion study that would enable it properly assign work credits for different tasks in the claims process. Nor has VBA adjusted individual employee production standards to reflect the increasing complexity and difficulty of the claims process. As a result, employees are pressured to short cut those tasks that are undervalued, such as additional case development.

As long as employees are subjected to arbitrary and unreasonable production standards, the claims development process will be flawed by inefficiency and incomplete claims development. The ultimate harm falls upon the veterans, who are deprived of full, fair, and timely consideration of their claims, and a growing backlog.

The recently issued VSR standards have exacerbated this problem by eliminating credit for other routine, critical steps in the claims process. It seems that management is once again looking for a quick fix to bring down the backlog instead of properly training people and letting them do their jobs.

More specifically, under the old standards, VSRs received work credit based on their performance in 60 criteria; under the new VSR rules, there are only 5 criteria. Most problematic is the complete loss of credit for follow-up development. The elimination of any credit for work beyond initial development will have a significant adverse impact on the claims processing system.

Similarly, the current method in which VBA provides credit for RVSR work adversely affects timeliness and quality. More specifically, these standards fail to provide any credit for additional development or completion of VA examination requests, both of which may take an RVSR multiple hours of production time to complete. The lack of credit for additional development or completion of VA examination request often forces the RVSR to choose between serving the claimant's needs and meeting production standards.

It is also problematic that local stations are permitted to increase production standards above national levels, creating inconsistencies and morale problems.

New employees are also held to unrealistic standards. They are given only 90 days to reach a production standard following a period without any production requirements. Also, they are not given any deductible time to correct prior work. In contrast, the mentors who review their work for errors receive deductible time for their work.

Implementation of a revised work credit system, customized for both new and experienced employees based on an independent, scientifically based study is urgently needed.

Counterproductive Telework Production Standards

The White House and Office of Personnel Management have stepped up their commitment to flexible workplace arrangements for Federal employees. Yet, the VA—which continues to lag behind other Federal agencies in the use of flexiplace—maintains discriminatory, counterproductive telework policies across all its ROs. Last year, at our request, Congressman Frank Wolf asked Secretary Shinseki to offer telework to more claims processors, and to end the arbitrary, unfair practice of requiring higher production from work-at-home employees. Unfortunately, Secretary Shinseki refused to change course.

VA's telework policies at the ROs make even less sense when so many ROs are facing severe space shortages. Every seat in the San Diego RO is full and more employees keep arriving. It is very difficult to get training rooms. We also do not have enough space for certification and vocational rehabilitation testing. It is nearly impossible to meet with all employees at the same time.

It is equally confounding that former Secretary Peake was willing to drop a similar practice of higher production standards at the Board of Veterans Appeals. VA Shinseki should be doing *even more* to promote telework in light of current White House goals to increase the use of telework!

All RO claims processing personnel with appropriate job duties should be offered the telework option. Work-at-home employees should be subject to the same production standards as their peers.

Thank you for the opportunity to testify on behalf of AFGE and the National VA Council.

**Prepared Statement of Paul Sullivan, Executive Director,
Veterans for Common Sense**

Chairman Hall, Ranking Member Lamborn and Members of the Subcommittee, thank you for inviting Veterans for Common Sense (VCS) to present our comments about "The State of the Veterans Benefits Administration" (VBA).

VCS appreciates the many hearings and round table discussions this Subcommittee has held in the past few years on this topic of vital interest to our veterans and families.

We seek a broader relationship between VBA and VBA's many stakeholders. For example, we support additional hearings devoted to individual veterans offering their views about their challenges with VBA as well as their ideas for improving VBA. In another example, we support a greater dialog with the private sector to find innovative ideas to kick-start VBA into the 21st Century. All of this can easily be accomplished with a White House–Congressional–Veteran Advocate conference open to the public so we can cast a wide net for short-term and long-term solutions.

Progress reforming VBA begins by listening to veterans and advocates. Allow us to begin today by stating our goal is to work closely with VBA so our veterans receive both prompt and high-quality health care and disability benefits. In many instances, an approved VBA claim is required before a veteran receives medical care.

Our testimony contains four parts. Our first part highlights promising news about the current state of VBA. Our second part lists troubling challenges needing prompt attention. Our third part, from our Web site, www.FixVA.org, describes VBA's systemic problems. And our fourth part offers a few pragmatic and progressive VCS solutions for the consideration of Congress and VA leaders also posted at www.FixVA.org.

Part One: Recent Promising News About VBA

On February 4, 2010, VCS listened to VA Secretary Eric Shinseki testify before Congress and announce that fixing VBA was his top priority for this year. We commend him for addressing this serious issue. VCS wants him and all of VBA to succeed, as this is in the best interest of our veterans and our families.

On March 18, 2010, VCS listened as VA's top information technology advisor, Peter Levin, told Chairman Bob Filner and dozens of veterans' advocates, "In my judgment, [VBA] cannot be fixed. We need to build a new [claims] system, and that is exactly what we are going to do." This admission of the scope and severity of VBA's crisis of poor quality combined with long delays was a critical first step toward reforming VBA.

On May 7, 2010, VA announced VBA would contract to build a simplified processing system for Vietnam War veterans' claims for disabilities. Scientists linked exposure to Agent Orange (dioxin) poisoning in Southeast Asia to several serious health conditions. VCS supports VA's decision, and we will be monitoring this public-private effort.

On June 2, 2010, the Office of Management and Budget approved VBA's new Form 21-526EZ, an express disability compensation claim. VCS hopes a new form may reduce the burdensome and frustrating 26-page claim obstacle course our veterans now face. We believe, when implemented, the new form may make it easier for veterans to file claims, easier for advocates to assist veterans, and easier for VBA staff to process accurate claims.

On June 10, 2010, VCS reviewed briefing materials concerning VBA's pilot programs intended to improve claim processing quality and timeliness. Overall, VCS supports these endeavors, so long as they actually improve accuracy and speed. The pilots must also be scalable: meaning VBA must be able to apply the pilot (or successful parts of it) to the entire VBA system within a short time frame. VBA's pilots adopt a veteran-centered approach, and VCS salutes this culture change. VCS reserves judgment on the pilots until VBA releases final reports about the completed pilot programs.

Part Two: Troubling News About VBA

While tackling some of VBA's systemic challenges, VBA continues to face serious obstacles stalling VA Secretary Shinseki's vision of transforming VBA.

Leadership Vacancies. As of June 8, 2010, VBA remains leaderless. There is no permanent Under Secretary or Deputy Under Secretary. VCS urges VA Secretary Eric Shinseki to fill the positions as quickly as possible with qualified veteran advocates who will continue his efforts to transform VBA. We strongly encourage VBA's soon-to-be-selected leaders to bring on board a team of dozens of subject matter experts focused on two goals. The first goal should be to improve both the quality and timeliness of claim decisions. The second goal should be to develop and implement a long-range plan to overhaul VBA's information technology, training, regulations, and leadership.

Unacceptably High Error Rate. VBA's error rate processing claims hovers at more than 25 percent, according to VA's Office of the Inspector General (OIG). Of particular concern are high error rates for PTSD and Agent Orange claims. We refer the Subcommittee to a hearing held earlier this month regarding VBA's inability to implement recommendations made by OIG and agreed to by VBA. VCS urges VA to institute total quality management controls as well as auditing to reduce the error rate. VCS has posted VA OIG audits at our program Web site, www.FixVA.org.

Tidal Wave of Claims. VA estimates the number of claims flooding into VBA may reach one million this year, creating additional burdens on VBA to process more claims. VCS urges VBA to closely monitor claims filed, granted, and denied by period of service, gender, age, and condition in order to have a more robust picture of emerging trends. VA currently receives one million new claims each year, and the total of all pending claims, appeals, and other claim-related work is in excess of one million. Demand for VBA benefits may remain at a high rate for many years due to:

- **Iraq and Afghanistan claims.** The two wars already caused nearly 500,000 new claims, with 500,000 more expected in the next 5 years.
- **Vietnam War claims.** Scientific evidence linking Agent Orange poisoning to medical conditions may result in hundreds of thousands of new claims.
- **PTSD claims.** Scientific evidence linking deployment to a war zone with PTSD may result in tens of thousands of new and re-opened claims.
- **Gulf War claims.** Scientific evidence linking toxic exposures during the 1991 war may result in tens of thousands of additional claims.
- **Economic Recession.** The economic recession and high unemployment causes some veterans to file more claims against VBA in order to obtain care.

Education Benefits Debacle. VBA's failure to implement the Post-9/11 GI Bill education benefits could have easily been prevented if VA, Congress, and veterans' groups cooperated on the design, construction, and implementation starting in 2007.

If there was greater communication and cooperation among legislators, VA, and veteran stakeholders, then the crisis may have been mitigated or prevented.

VA's Anti-Veteran Legislative Proposal. On May 25, 2010, VA sent a letter to Speaker of the House Nancy Pelosi containing draft legislation focusing on VBA. VCS objects to VA's efforts to restrict veterans' due process rights to retain counsel for claim appeals. VCS provided VA and Chairman Filner with a letter detailing some of our major objections.

Unfinished Gulf War Issues. On May 3, 2010, VCS submitted comments regarding VA's draft Gulf War Veterans' Illness Task Force report. VCS awaits VA Secretary Shinseki's response to our comments, especially those about improving disability compensation benefits for Gulf War veterans. The 20th anniversary of the start of the conflict, now the longest in U.S. history, represents an opportunity for VA to conduct outreach for research, health care, and benefits for our Gulf War veterans.

PTSD Claim Regulations. On October 14, 2009, VCS submitted comments regarding VA's proposed regulations granting a presumption of service connection for PTSD for veterans diagnosed with PTSD who deployed to a war zone. VCS supports VA Secretary Shinseki's bold initiative, and we hope VA publishes the final regulations soon so veterans may receive care and benefits. We urge VA to work transparently with veterans' advocates and Congress so we can monitor the implementation of the new regulations.

Historical Pattern of Neglect. The press coverage about VBA remains unflattering, due in part to what appears to be a lack of media outreach by VBA. We hope this can change soon, with more news in the press about fewer VA errors and shorter wait times for veterans.

- **On August 13, 2003**, the *Wall Street Journal* reported on the tragic plight of Afghanistan War veteran Jason Stiffler. While deployed, Stiffler was injured and suffered psychological trauma, leading him to have both traumatic brain injury (TBI) and post traumatic stress disorder (PTSD). Nearly 7 years ago, the estimate of Iraq and Afghanistan claims was only 50,000. Today, VBA has received nearly 500,000 claims from current war veterans. Seven years ago, the number of claims sitting at the Board of Veterans appeals was just over 100,000. Today, the Board has 200,000 pending appeals. VCS asks the Subcommittee to read the article: <http://www.veteransforcommonsense.org/index.php/veterans-category-articles/1766-wall-street-journal>.
- **On June 7 and again on June 9, 2010**, National Public Radio (NPR) aired two lengthy investigative reports about TBI. The two NPR articles describe significant problems for soldiers caused by the military due the lack of awareness, exams, and treatment for TBI. VCS urges VBA to be aware of the military's lack of exams and treatment when it comes to reviewing veterans' claims for TBI. VCS asks the Subcommittee to read the NPR articles.
NPR Part One: <http://www.veteransforcommonsense.org/index.php/whats-new/1754-npr>.
NPR Part Two: <http://www.veteransforcommonsense.org/index.php/whats-new/1763-npr>.

Conclusion for Parts One and Two

While many challenges persist at VBA, significant progress toward reform is being made by VA Secretary Shinseki. However, simply recognizing a catastrophe exists and promising to transform VBA is not enough. VCS and our collective constituency want to see results. Measurable results will be observed when a new team is brought in to lead VBA with a broad mandate from Secretary Shinseki and President Obama. Results will be celebrated when VBA's error rate is reduced significantly, and claims are processed quickly (with an exception for serious cases with multiple conditions).

In order to reach our long-term goal to transform VBA for the 21st Century, VCS asks Congress to pass a new law mandating the creation of an entirely new VBA system from the ground up. A new law should fund the creation of a new, streamlined VBA, based on VBA pilots. The new law and new VBA must set requirements for quality and timely decisions so our veterans don't wait for health care or benefit payments.

Part Three: VCS Identifies Nine Major Problems at VBA

Parts three and four contain information from our new program Web site, www.FixVA.org. On Friday, April 9, 2010, Veterans for Common Sense held a press conference in San Diego, attended by the Honorable Bob Filner, Chairman of the

House Veterans' Affairs Committee. At our new Web site, VCS listed the nine major problems in Part Three as well as the nine practical solutions shown in Part Four:

1. **Stagnant System.** For decades, leaders at VBA failed to upgrade VBA information technology, regulations, training, and oversight. This led to a backlog of one million claims (of all types), hundreds of thousands of appeals, and a high error rate. Veterans wait, on average, 6 months for an initial claim decision from VBA. Veterans who appeal a VBA decision can wait an additional 4 or 5 years for a decision from the Board of Veterans Appeals (BVA). Instead of reforming VBA, leaders tinkered with a few rules, declared victory, and hoped Congress and veterans would walk away.
2. **Different Locations.** VBA leaders work at 1800 G Street, NW in a separate building a half-mile away from VA Secretary Eric Shinseki's headquarters at 810 Vermont Avenue, NW, in Washington, DC. Out of sight means out of mind when it comes to reforming VBA.
3. **Obsolete Computers.** VBA uses several different computer systems, some dating back decades. They don't work. Mail is stacked, claims are shredded, and claims are lost because VBA is not digitized. VBA's obsolete computers mean VBA leaders don't know why Guard and Reserve veterans from the Iraq and Afghanistan war are half as likely to file claims, yet twice as likely to have their claim denied. The current system computer is not friendly for VBA staff or for veterans.
4. **26-Page VBA Application.** VBA forces veterans to complete a 26-page claim form. Imagine being a veteran with post traumatic stress disorder—PTSD—or traumatic brain injury—TBI—and trying to fill out VBA's complex, overwhelming, and burdensome paperwork all alone.
5. **No Military Records.** VBA doesn't have automatic access to computerized military service records and military medical records. That means VBA must request paper records one at a time for each veteran. VBA and military searches for paper records often take years and often are the root cause for denials for benefits and health care due to veterans' lack of evidence for their claim.
6. **Two Separate Agencies.** Except in a few locations, VBA and VHA don't share office space, and that means they might as well be on different continents. Most veterans file their VBA claims at a VHA medical facility, where there are few, if any VBA staff to review the claim, set up claim exams, or make claim decisions. VHA then mails the claim form to VBA. In some cases, veterans incorrectly confused a VBA claim denial as a VHA health care denial—with devastating consequences.
7. **VBA Vacancies.** VBA recently began advertising for new positions to process the tidal wave of claims. For example, in Waco, Texas, VBA is hiring 100 new claims processors.
8. **Attorney Restrictions.** Veterans are prohibited from hiring an attorney until after VBA has denied their claim. Enemy prisoners of war can have attorneys at Guantanamo, yet our veterans fight VBA alone.
9. **VA Audits Prove Serious Problem Exists.** In the past 7 months, more than 10 VA Office of the Inspector General (VA OIG) reports have found very serious systemic problems within VBA. Examples include unacceptably high VBA error rates at eight VBA regional offices. VBA's reports about the backlog of claims are incomplete and difficult to understand. A recent study also found VA remains unable to determine the full human and financial costs of the Iraq and Afghanistan wars. After nearly 9 years of war, that's unacceptable.

Part Four: VCS Offers Nine Practical and Progressive Solutions

1. **New Leaders.** The Under Secretary for Benefits position is vacant. VCS urges VA Secretary Eric Shinseki to hire new, pro-veteran leaders at VBA dedicated to fixing VBA within the next 2 years. The new leaders will also need additional support staff to oversee a massive overhaul of the beleaguered agency.
2. **Move Leaders.** VCS urges Secretary Shinseki to relocate VBA leaders from 1800 G Street in Washington to inside VA's national headquarters located at 810 Vermont Avenue, where they will be co-located with his other VA leaders. This sends the signal to veterans, Congress, and the public that fixing VBA is a top priority.
3. **Presumptive Conditions.** VCS urges Secretary Shinseki to create an automated, veteran-friendly system that takes advantage of laws creating more presumptions in favor of the veterans, such as VA's new regulations expanding health care and disability benefits for Vietnam War veterans suffering serious and adverse medical problems associated with their exposure to Agent Orange poisoning. VA's goal should be to process claims in 1 month, not the current

- 5 to 6 months. Two examples under consideration now supported by VCS would streamline PTSD and Gulf War claims.
4. **Single Page Claim Form.** VCS urges Secretary Shinseki to adopt a one-page claim form to replace VBA's current 23-page form. This would cut burdensome red tape and remove a significant barrier, especially for veterans with mental health conditions and/or brain injuries. This will also make it easier for VBA employees to process claims. VHA currently uses a one-page health care enrollment form, and VBA should follow suit.
 5. **Joint DoD-VA Record.** VCS urges Secretary Shinseki to work closely with Defense Secretary Robert Gates and begin using the new, robust lifetime electronic military medical record proposed by President Barack Obama. VCS urges the military to complete the mandatory pre- and post-deployment medical exams as part of the new record. This will end VBA's current lengthy practice of reconstructing medical records, a process that takes years and delays veterans' timely access to health care and benefits.
 6. **VBA Staff at VHA Facilities.** VCS urges Secretary Shinseki to bring VBA to where our veterans are by restructuring VBA and placing VBA claims processing staff at VHA medical facilities to meet face-to-face with veterans. Veterans hope and expect to see friendly VBA experts who can quickly and accurately process claim forms, set medical appointments, and decide veterans' claims. Completing a veteran's claim correctly the first time reduces appeals that clog up VBA.
 7. **Hire More Veterans.** Veterans returning from Iraq and Afghanistan have an unemployment rate of nearly 15 percent, according to a recent CNN broadcast. VCS urges VA Secretary Shinseki to place personnel offices at military discharge locations so veterans have faster access to VA jobs, including VBA positions. We urge VA to hire veterans.
 8. **Veterans Need Attorneys.** VCS urges Secretary Shinseki to work with Congress so our veterans can hire an attorney before they file a claim. This is especially vital for our veterans suffering from PTSD, TBI, or other mental health conditions. Completing a fully developed quality claim correctly the first time with expert legal advice reduces appeals that often clog up VBA for years.
 9. **Greater Transparency.** VCS urges Secretary Shinseki to release more information about the agency's work as well as conduct more outreach to inform our veterans about their benefits. VCS urges the Secretary to hire the appropriate staff to conduct oversight so there is more accountability within the new VBA system, especially staff to oversee quality as a high priority. VCS also urges VA to begin tabulating the current cost of the wars as well as estimating the future costs of the war so VA is well positioned with staff and facilities to meet the increases in demand.

Conclusion

VCS presents Congress with our bold agenda listing VBA's systemic challenges and pragmatic solutions.

At the top of our list of critical VA actions: VA must fill top VBA leadership vacancies.

VCS constantly encourages veterans to seek care and benefits from VA. VCS also advocates for systemic improvements so our veterans receive the prompt and high-quality medical care and benefits they earned.

Our final message to VA and Congress is for VBA to work with veterans' advocates and focus on quality claim decisions, timely claim decisions, and improving VA's culture.

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

Chairman Hall, Ranking Member Lamborn, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss the Department of Veterans Affairs (VA) disability compensation and pension programs. Accompanying me today are Ms. Diana Rubens, Associate Deputy Under Secretary for Field Operations; Mr. Tom Pamperin, Associate Deputy Under Secretary for Policy and Program Management; Mr. Mark Bologna, Director for the Veterans Benefits Management System (VBMS) initiative, and Dr. Peter L. Levin, Senior Advisor to the Secretary and Chief Technology Officer. My testimony will focus on the Sec-

retary's goal to eliminate the claims backlog by 2015 so as to ensure timely and accurate delivery of benefits and services to our Veterans and their families.

Mission, Transformation Strategy and Goals

Our mission at VA is to fulfill President Lincoln's promise—"To care for him who shall have borne the battle, and for his widow, and his orphan"—by serving and honoring the men and women who are American's Veterans. VA is also to transform into a 21st Century organization that is Veteran-centric, results-driven, and forward-looking. This transformation is demanded by a new era, emerging technologies, the latest demographic realities, and renewed commitments to today's Veterans. To this end, VA must deliver first-rate and timely health care, benefits, and other services to our Nation's Veterans, families and survivors.

Secretary Shinseki, the Veterans Benefits Administration (VBA), and the entire VA leadership fully share the concerns of this Subcommittee, Congress as a whole, the Veterans Service Organizations (VSOs), the larger Veteran community and the American public regarding the timeliness and accuracy of disability benefit claims processing. As you know, Secretary Shinseki has set the critical goals of eliminating the disability claims backlog by 2015 and of processing disability claims so no Veteran has to wait more than 125 days for a quality decision (98 percent accuracy rate) on that claim. Achieving these goals is at the center of our work as we collaborate across the Department and with our partners in the Department of Defense to tackle this important objective for our Nation's Veterans.

Under the leadership of Secretary Shinseki, we are attacking the claims process and backlog through a focused and multi-pronged approach. At its core, our approach relies on three pillars:

1. Culture: A culture change inside VA to one that is centered on accountability to and advocacy for our Veterans;
2. Reengineering business processes: Collaborating with internal and external stakeholders (employees, administrations and staff, Congress, VSOs, public and private entities) to constantly improve our claims process using best practices and ideas; and
3. Technology and infrastructure: Deploying leading edge, powerful 21st century IT solutions to create a smart, paperless claims system which simplifies and improves claims processing for timely and accurate completion the first time.

Transforming our disability claims processing system involves identifying short-term changes with immediate impact to streamline the way we currently do business, improving business processes, enabling practices which will best leverage technology, and hiring staff to bridge the gap until we fully implement our mid-range plan. We expect these transformational approaches to begin yielding performance improvements in 2011 and gain in significance beyond; nonetheless, it is important to mitigate the impact of the increased workload until that time.

Our aggressive efforts are at the heart of our requirements for the large increase in our 2011 budget request for the VBA. The President's 2011 budget request for VBA is \$2.1 billion in discretionary funding, an increase of \$460 million, or 27 percent, over the 2010 enacted level of \$1.7 billion. The 2011 budget supports an increase of up to 4,048 FTEs, including maintaining some of the temporary employees funded through the American Recovery and Reinvestment Act of 2009. Importantly, the budget also includes \$145.3 million in information technology (IT) funds in 2011 to support the ongoing development of a 21st Century smart, paperless claims processing system. We greatly appreciate this Subcommittee's consideration and support for our fiscal year (FY) 2011 budget request as we continue this important work for our Veterans.

All of us working inside VA are well aware that from the outside, Congress and the VSOs are not yet seeing external results, but we are confident that that will change by the end of 2011.

We recognize the frustration of many Veterans and our employees with the time it takes to reach a decision on Veterans' disability claims. Throughout VA we are rededicating ourselves to the mission of being advocates for our Veterans. This agency-wide commitment flows from the Secretary down to the VA leadership to our dedicated employees in the field. Our leadership team is deeply committed to improving our relationship with Veterans and other stakeholders, so that we are seen as their advocates and partners, no matter the circumstance. Before going further, let me provide an update on our current disability claims workload.

Current Workload

Our pending claims inventory is rising due to the unprecedented volume of disability claims being filed. In 2009, for the first time, we received over one million

claims during the course of a single year. The volume of claims received has increased from 578,773 in 2000 to 1,013,712 in 2009 (a 75 percent increase). Original disability compensation claims with eight or more claimed issues increased from 22,776 in 2001 to 67,175 in 2009 (nearly a 200 percent increase). Not only is VA receiving substantially more claims, but the claims have also increased in complexity. We expect this level of growth in the number of claims received to continue in 2010 and 2011. VBA experienced a 14.1 percent increase in annual claims received in 2009, while we projected an increase of 13.1 percent and 11.3 percent in 2010 and 2011, respectively. This substantial growth is driven by a number of factors including our successful outreach efforts, which is a priority of the Secretary as well as this Subcommittee and Congress; improved access to benefits through initiatives such as the Disability Evaluation System, Quick Start, and Benefits Delivery at Discharge Programs; increased demand as a result of nearly 10 years at war; and the impact of a difficult economy prompting America's Veterans to pursue access to the benefits they earned during their military service. As a result, we now average over 97,000 new disability claims added to the inventory each month, and we project to receive an astounding nearly 1.2 million disability claims this year.

The projections listed above do not take into account important decisions made by Secretary Shinseki over the last year. On October 13, 2009, Secretary Shinseki announced his decision to establish presumptions of service-connection for Veterans exposed in service to certain herbicides, including Agent Orange, for three particular illnesses based on the latest evidence presented by the Institute of Medicine of an association between those illnesses and exposure to herbicides.

Due to this policy change alone we expect the number of compensation and pension claims received to increase from 1,013,712 in 2009 to 1,318,753 in 2011 (a 30 percent increase). Without the significant investment requested for staffing in the FY 2011 budget request, the inventory of claims pending would grow from 416,335 to 1,018,343, and the average time to process a claim would increase from 161 to 250 days. If Congress provides the funding requested in our budget, we will be able to increase production in order to lower the inventory to a projected level of 804,460 claims pending with an average processing time of 190 days. This Agent Orange decision, which is the right decision for our Veterans, will add to the disability claims inventory in the near term but with the aggressive actions VA is taking will not prevent us from achieving elimination of all backlog in 2015.

Through 2011, we expect over 186,000 claims related to the new presumptions, and we are dedicated to processing this near-term surge in claims as efficiently as possible. Included in the claims projected through 2011 are approximately 93,000 claims from Vietnam Veterans and survivors previously denied for these conditions. We have a plan to re-adjudicate these decisions, as required under the court orders in the U.S. District Court for the Northern District of California case of *Nehmer v. U.S. Department of Veterans Affairs*. VA is also soliciting private-sector input to design and develop an automated system for faster processing of new Agent Orange presumptive claims—we already have over 40,000 new claims and are receiving about 8,000 more per month.

While the volume and complexity of claims have increased, so too has the overall production effort of our claims processing workforce. In 2009, the number of claims processed was 977,219, an increase of 8.6 percent over the 2008 level of 899,863. The average time to process a rating-related claim was reduced from 179 to 161 days in 2009, an improvement of 11 percent. We recognize that these improvements are not enough. VA currently has approximately 508,000 pending disability claims, 35 percent of which have been pending for longer than our strategic target of 125 days, and are therefore considered to be part of VA's claims backlog. VBA continues to aggressively hire and train claims processing staff across the Nation, and we currently employ over 11,600 full-time claims processors.

Hiring more employees is not a sufficient solution. The need to better serve our Veterans requires bold and comprehensive business process changes to transform VBA and therefore VA into a high-performing 21st century organization that provides the best services available to our Nation's Veterans, survivors, and their families.

Improvement Initiatives

VA's transformation strategy for the claims process leverages the power of 21st century technologies applied to redesigned business processes. We are examining our current processes to be more streamlined and Veteran-focused. We are also applying technology improvements to the new streamlined processes so that the overall service we provide is more efficient, timely and accurate. We are harvesting the knowledge, energy, and expertise of our employees, VSOs, and the private and public sectors to bring to bear ideas to accomplish this claims process transformation.

Our end goal is a smart, paperless, IT-driven system which empowers our VA employees and engages our Veterans. While we work to develop this system, we are making immediate changes to improve our business processes and simultaneously incorporating the best of those changes into the larger effort, our signature program, the Veterans Benefits Management System (VBMS). Our efforts are also synchronized and coordinated with VA's Virtual Lifetime Electronic Record and Veterans Relationship Management System programs.

VA has developed a plan to "break the back of the backlog" which includes short, medium, and long term initiatives running in parallel and feeding into continuous improvement efforts.

Short Term Initiatives

There are a number of claims process improvement initiatives in various stages of concept development or execution. Some of the initiatives are quickly implemented changes to build momentum and reach out to our Veterans. For example, in an effort to speed up our work and to connect with our Veteran-clients, VBA now requires staff to reach out and call Veterans more often during the claims process rather than to rely solely on written communication. VA is also currently working to develop over 60 new medical questionnaires to take the place of current VHA examination templates to improve rating efficiency.

Another initiative is being conducted at our St. Petersburg Regional Office (RO) to identify and pay Veterans at the earliest point in time when claimed disabilities are substantiated by evidence we already have on record. In addition, four ROs are testing the concept of an "Express Lane" to expedite single-issue claims to improve overall processing efficiencies and service delivery. Yet another initiative will allow employees and Veterans to communicate regarding VA benefits using on-line live chat capabilities through the new portal called e-Benefits. All of the initiatives I have described and a number of others are being tracked for impact on timeliness and quality, and we will launch the successful initiatives nationally. For example, VA has initiated a new shorter application form—cutting the previous 23-page form down to 12 pages. In many cases we expect to see significant improvement in Veteran satisfaction with the application process.

On October 10, 2008, then-President Bush signed the Veterans' Benefits Improvement Act of 2008, Public Law 110-389. Members of this Subcommittee played an integral role in developing that legislation. Section 221(a) of the Act directed VA to carry out a 1-year pilot program to assess the feasibility and advisability of expeditiously processing fully developed compensation and pension claims within 90 days after receipt of the claim. In 2009, 10 ROs implemented the fully developed claim program. VA has expanded this program for implementation at all ROs.

Mid to Long Term Initiatives

The results of the short term efforts feed directly into our mid-range high-impact technological solution, VBMS, to support paperless processing and an electronic management system to process claims from start to finish.

To inform the components of VBMS and as a part of our overall strategy to eliminate the backlog, we have four main pilot initiatives underway that are integral to our overall transformation plan. Each pilot functions as a building block and test bed for the development of an efficient and flexible paperless claims process. The results of all four pilots will be incorporated into the nationwide deployment of the VBMS in 2012.

The Little Rock Compensation Claims Processing Pilot began in July 2009 following completion of the VBA Claims Development Study by Booz Allen Hamilton. The Little Rock pilot focused on a "Lean Six Sigma" approach to streamlining current processes and procedures. The Veterans Service Center converted from the VBA's existing claims processing model into new fully integrated claims processing teams or pods. The pilot concluded in May 2010, and VBA is evaluating the outcomes to determine next steps.

The Business Transformation Lab (BTL) in Providence, RI, serves as a "test ground" for defining processes and testing functionality that will be incorporated into the development and deployment of VBMS. The primary purpose of the BTL is to utilize a structured approach to identify the most efficient way to process claims in an electronic environment incorporating current technology. As part of this process, the Providence RO is testing paperless claims processing using a small population of claims. The business process improvements identified by the BTL will be supported by technology enhancements and be integrated into VBMS.

The Pittsburgh RO began the Case-Managed Development Pilot in January 2010. The purpose of the pilot is to identify opportunities to reduce the time required to request and receive evidence, providing direct assistance to Veterans in compiling

the necessary documentation to support their claims throughout the claims process. A second important aspect of the pilot is to enhance relationships and partnerships with our Veteran-clients through personal communications. Goals of the pilot include more personalized service to Veterans and greater advocacy on their behalf; more accurate decisions; and a more transparent understanding of VA's claims process.

The fourth pilot, the Virtual Regional Office (VRO), has already produced excellent results. The single and focused purpose of the VRO pilot was to deliver the specifications for an implementable, professional-grade technical front end "dashboard" of the new system. This dashboard will enable VBMS users to do their jobs more efficiently and effectively. Based on the role of that individual user, the dashboard will provide relevant information about a Veteran's claim that will enable faster and more accurate processing of claims. The specifications were not developed in a vacuum but rather side-by-side with VBA employees who gave input to the developers. The initial field use of dashboard capabilities is scheduled to begin in November 2010, and will be primarily focused on testing the software. Each iterative version of the dashboard will add improved functions and tools. In fiscal year 2012, we will begin nationwide deployment of the end-to-end paperless claims process and software platform, VBMS.

As mentioned earlier, VBMS is a critical business transformation initiative supported by the latest technology, and designed to improve VBA's ability to deliver important benefits to our Veterans, their families and survivors. VBMS is a holistic solution that integrates both a business transformation strategy (BTS) and a web-based, 21st Century paperless claims processing system which will significantly reduce VBA's reliance on the receipt, movement, and storage of paper. By eliminating the dependence on paper, VBA will be best positioned to make better use of available resources, regardless of geographic location.

As noted earlier, VBMS will also provide services to other critical initiatives underway at VA including the Veterans Relationship Management initiative (VRM) and the Virtual Lifetime Electronic Record (VLER). Data captured through VBMS will be used to provide information to Veterans through VRM on the status of their claims and to update VLER. Integration of the various initiatives will allow us to provide our Veterans with new ways of interacting with VA in ways that meet their needs and are convenient for them.

We recognize that technology is not the sole solution for our claims-processing challenges; however, it is the hallmark of a forward-looking organization and must be at the core of our efforts. Combined with a renewed commitment and focus toward increasing advocacy for our Veterans, the VBMS strategy combines a business transformation and re-engineering effort with enhanced technologies, giving an overarching and clear vision for improving service delivery to our Nation's Veterans.

Partnerships

VBA recently partnered with the Department of Defense (DoD) to create the eBenefits portal (www.ebenefits.va.gov). The portal provides Servicemembers, Veterans, families, and care providers with a secure, single sign-on process to on-line benefits information and related services (such as military personnel records and status of VA claims). Servicemembers can use this eBenefits account while on active duty and as Veterans following separation, allowing both DoD and VA to provide benefit updates and to deploy the right benefit information at the right time. Future eBenefits releases will provide additional self-service capabilities that empower users to electronically communicate with VA and DoD about their benefits and services from anywhere at anytime.

VBA continues to meet with stakeholders to improve communication and to promote innovation. On April 8, 2010, VBA met with several of the largest Veterans Service Organizations (VSOs) to partner on ideas to help eliminate the backlog and increase quality. In June 2010, several VSOs traveled to Pittsburgh and Providence to observe pilot operations. We continue to meet with the VSOs on a regular basis to collaborate and develop proposals that have potential to boost our overall strategy. On June 8, 2010, we met with "out of the box" thinkers from various organizations to brainstorm new ways to improve the services that we provide to our Veterans. On June 10, 2010, we also met with our union partners, the American Federation of Government Employees (AFGE), to develop strategies to improve client service and eliminate the backlog. We will continue to examine every new idea from our employees and stakeholders that may assist us in our mission.

Conclusion

Secretary Shinseki's goal is to transform VA into an organization that is Veteran-centric, results-driven, and forward-looking. At the same time, VA must deliver

first-rate and timely health care, benefits, and other services to our Nation's Veterans, families and survivors. Nothing less will do. All of VA is moving forward aggressively and comprehensively to transform our claims process through a focused and multi-pronged approach. At its core, our team approach relies on three pillars: Culture, Reengineering business processes, and Technology and infrastructure. We look forward to working with Congress, VSOs, and other partners to meet our critical goals and the needs of 21st Century Veterans and their families.

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

MATERIAL SUBMITTED FOR THE RECORD**U.S. Department of Veterans Affairs
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1. INTRODUCTION

Compensation and Pension (C&P) Service periodically performs work measurement studies in which it gathers data from regional offices (ROs) regarding the distribution of time spent on work activities. The purpose of these studies is to develop work rate standards that express the amount of effort normally required to complete various kinds of work. Work measurement studies gather data using a “self-observation” technique in which employees are intermittently asked to record their current activity. The goal is to gather enough random observations to develop reliable estimates of how employees distribute their work effort among various activities and end products (EPs).

C&P Service collected work measurement data at 15 ROs, including three collocated Pension Maintenance Centers (PMCs), during the month of April 2004 (approximately 22 working days). Additional data were collected at the three collocated ROs and PMCs during February, March, and May 2004 (approximately 84 days including April). The additional sampling months were intended to capture the seasonal fluctuation in work flow and composition at the PMCs. Because there is less monthly variation in work flow and composition for the ROs’ Veterans Service Center (VSC) work, C&P indicated it was sufficient to survey VSCs for only 1 month. The data collection periods were consistent with the corresponding monthly periods for which data on staff hours and completed end products were reported from the Veterans Benefits Administration’s (VBA) automated systems.

The work measurement data were collected using the Electronic Work Measurement Application (EWMA) for computer users and paper forms for outbased employees and others who do not use a computer at work. At most stations, file clerks, work study, and Virtual VA employees did not participate in the study, but their hours on duty for the study period were incorporated into loading factors, which are applied to the direct labor work rate standards. Section 3 provides more information about loading factors used in the work rate standard computations.

This report describes the work rate standard development methodology, presents a summary of the data analysis results, including national work rate standards, and provides instructions for recomputing the work rate standards using various loading methods. Two sets of work rate standards were developed—one based on the 15 ROs surveyed in April, and the other based on the three ROs/PMCs surveyed from February through May.

2. DATA CONSOLIDATION AND PREPARATION

The data consolidation process involved the following steps:

1. All paper forms were batched and entered into the database of work measurement observations.
2. One file was created that included all data collected in April. Another file was created that included all data collected at the ROs with collocated PMCs during the months of February through May.
3. Various cross-tabulations were run against the two files to provide the underlying raw data that support the analysis described in the remainder of the report.

3. COMPUTATIONAL APPROACH

This section describes the methodology for calculating work rate standards. All steps were applied to both the April file and the February through May file.

1. Unusable work measurement observations—those either indicating an activity choice of “Lunch/Leave/Loaned Time/Not Part of Study” or time-stamped outside the work measurement period—were discarded.
2. The proportions of time spent on each EP were estimated for each participating RO by dividing the observation count for a particular EP by the total observation count for the station. For example, at Atlanta, 918 out of 36,927 total observations fell under EP 110 (performed by rating staff or for a rating activity).¹ Using these data, an estimated 2.5 percent of overall work time was spent performing rating activities on EP 110.
3. The number of hours spent on each end product at each RO were computed by multiplying the time proportions from the previous step by the staffing hours for the station. The time proportions were aggregated into non-rating

¹The following activities were considered part of rating time: Prepare Rating (1d), Prepare/Review SOC/SSOC (2c), Conduct Hearing (2g), DRO Review (2h), and Prepare Rating—Appeal (2i). The Develop Claim—Not by Telephone (1c), Development of Appeal (2b), and Certification (2e) activities were also considered part of rating time when they were conducted by Rating Veteran Service Representatives (RVSR) or Decision Review Officers (DRO).

and rating groupings for each EP. For example, Atlanta had a total of 34,824 staffing hours for the study period, an estimated 2.5 percent of which was spent performing rating activities on EP 110. Combining these figures, an estimated 866 hours were spent performing rating activities on EP 110.

4. The effort required to complete one unit of each type of work was estimated by dividing the hours spent on each EP (as estimated in the previous step) by the completed work count for the study period.² Separate computations were performed for rating and non-rating time. For example, Atlanta completed 466 EP 110s during the study period. Dividing the estimated time spent working on these EPs (866 hours) by the completed work count yields a direct labor (unloaded) rating work rate standard of 1.86 hours per unit.
5. Loading factors were computed to account for time spent on certain activities not directly related to final EPs or for activities that do not correspond to a measured work count. The treatment of loading factors was determined based on C&P input. The loading factors are as follows:
 - Allowances were computed as the proportion of total non-leave observations spent on the following four activities: Personal Needs (Activity Code 8a), Office Maintenance (8b), Unavoidable Delay (8c), and Self-Development/Informal Training (8d).
 - Adjustments for administrative EPs 330, 400, 930, and 960 were computed by prorating the observations over the time spent on all other adjudication EPs. Separate adjustments were computed for non-rating and rating time.
 - A loading factor was computed to account for time spent on Estate Management (9f). Observations for Estate Management were prorated over the time spent on all other Fiduciary and Field Exam (F&FE) EPs (EPs 1000 through 1008 and Activity Code 9c), excluding Special Field Exams (9d).³
 - Observations for EP 689 (Gulf Environment) were spread over EPs 010, 020, and 110. This adjustment was necessary because there were no completed work counts for EP 689 during the study period, therefore precluding the calculation of a work rate standard for this EP.
 - The Files loading factor was computed as the proportion of EP-related observations spent on Review Mail (7a) and Maintain/Update Files (7b), as well as manually collected Files and work study time. The Supervision loading factor was computed as the proportion of EP-related observations spent on Supervision/Management (8e) and Supervisory WIPP Reviews (8h).
 - Virtual VA time was spread over the PMC EPs 050, 150, 154, 155, and 314.

Section 4 provides information on these factors, including a discussion of different methods for including them in the work rate standard calculations.

6. The loading factors calculated in the previous step were applied to the direct labor standards.
7. A statistical control procedure identified and removed individual station averages that were inconsistent with those from the other stations participating in the study. Control limits were established that are three standard deviations above and below the national work rate standards and the standards for each participating station.⁴ If any stations fell outside the national control limits (i.e., the station's control limits did not overlap the national control limits), the station farthest outside these boundaries was removed, and both the national average and its control limits were recalculated. This process was repeated until all of the remaining stations were within the control limits. NOTE: Stations with a work rate standard of zero were the first ones removed in the control filter process.

The work rate standards are reported as uncontrolled and controlled figures—that is, before and after the application of Step 7 in the computational process.

²Using completed work counts for a brief study period can be problematic if many types of processes require several months to complete. This calculation makes the assumption that work units are completed in an even flow, and that the number completed during the study period is reflective of the number worked on during the period. This assumption is questionable for low volume, long or highly varied duration, or seasonal work.

³Special Field Exams are measured in hours spent and do not have a work rate standard.

⁴The control limits are based on the proportion of time spent on each EP, as determined in Steps 2 and 3. Treating this proportion as a binomial distribution, the standard deviation around the estimated value is: $\sqrt{\hat{p}^*(1-\hat{p})/n}$, where \hat{p} is the estimated proportion of time, and n is the number of observations used in estimating the proportion. The standard deviation around the estimated time proportion is applied to the staffing hours and completed work counts to develop control limits for the filtering process.

4. WORK MEASUREMENT ANALYSIS TOOL

Appendix A contains two Microsoft Excel workbooks—the first, *WRSCP April2004 Final.xls*, contains all the calculations to derive the work rate standards and other statistical descriptions of the data gathered for the 15 ROs during the month of April; the second, *WRS-PMC-VSC Feb-May2004 Final.xls*, does the same for the data gathered for the three ROs with colocated PMCs during the months of February through May. The structure and content of the worksheets in both files follow the same pattern and are described in Section 4.1. Section 4.2 provides instructions for modifying or recalculating the work rate standards within the worksheets.

4.1 Analysis Tool Contents

There are 30 worksheets in each workbook. The worksheets are organized into five major sections:

1. The first three sheets display the high-level final results of the model calculations and allow analysts to specify parameters used in recalculating the work rate standards.
2. The next four sheets display detailed results and control sheets for non-rating and rating standards. The model uses these sheets to display calculation results only; analysts should not modify the data on these sheets manually.
3. The next 11 sheets contain data extracts that are used to calculate work rate standards or to provide different views of the aggregated data.
4. The seven sheets that follow contain breakouts of the characteristics of former-VSD work.
5. The last five sheets in the workbook contain the raw inputs to the work measurement calculations.

A more detailed description of each worksheet is provided in Sections 4.1.1 through 4.1.5.

4.1.1 High-Level Results and Parameter Settings

The first three worksheets show the high-level results of the workbook calculations and provide the capability to adjust several key parameters used in computing the work rate standards. The sheets in this section are as follows:

- *NationalWRS* shows the final results of the work rate standards calculations. This sheet contains one key input to the calculation process—the selection of a method for adjusting for allowances and indirect time.⁵ The method is entered into cell K1. The five method choices are as follows:
 - Method 1: Rating and Non-Rating Rubrics; Allowances loaded in both rubrics proportionately.
 - Method 2: Rating and Non-Rating Rubrics; Allowances loaded in both rubrics proportionately; Non-Rating also includes Files spread proportionately.
 - Method 3: Rating and Non-Rating Rubrics; Allowances loaded in both rubrics proportionately; Non-Rating also includes Files and Supervision spread proportionately.
 - Method 4: Rating and Non-Rating Rubrics; Allowances loaded in both rubrics proportionately; Rating also includes Files spread proportionately; Non-Rating also includes Files spread proportionately.
 - Method 5: Rating and Non-Rating Rubrics; Allowances loaded in both rubrics proportionately; Rating also includes Files and Supervision spread proportionately; Non-Rating also includes Files and Supervision spread proportionately.

The remainder of the sheet provides a summary of the calculation results. Specifically:

- Columns B and C show the national uncontrolled non-rating and rating work rate standards.
- Columns D and E show the control-filtered non-rating and rating work rate standards.
- Columns F and G show the non-rating and rating work rate standards for selected ROs. In these results the work rate standards are based on the stations the analyst has chosen for inclusion, as indicated on the *Selected Non-Rating* and *Selected_Rating* worksheets.

⁵All methods include adjustments for Allowances, Administrative EPs, and Estate Management time (for F&FE). Methods 2 through 5 include adjustments for Virtual VA time across designated PMC EPs. See Section 3, Computational Approach, for more details.

- Columns H and I identify the stations that were removed during the control filtering process.
- *Selected Non-Rating* allows the analyst to choose which stations will be used in the non-rating work rate standards. The worksheet consists of a matrix with EPs as rows and RO numbers as columns. To select an RO for inclusion in the final standards for an EP, enter a 1 in the RO's column; enter a 0 to exclude it. The work rate standards for the hand-selected ROs can be seen in the last column, as well as on the *NationalWRS* worksheet.
- *Selected Rating* allows the analyst to choose which stations will be used in the rating work rate standards. The worksheet consists of a matrix with EPs as rows and RO numbers as columns. To select an RO for inclusion in the final standards for an EP, enter a 1 in the RO's column; enter a 0 to exclude it. The work rate standards for the hand-selected ROs can be seen in the last column, as well as on the *NationalWRS* worksheet.

4.1.2 Detailed Model Results

Detailed results of final work rate standards calculations are shown on four worksheets:

- *Loaded RO WRS NR* displays the fully loaded non-rating work rate standards for each end product and each RO.
- *Loaded RO WRS Rating* displays the fully loaded rating work rate standards for each end product and each RO.
- *NR Control* displays the “control sheets” for all non-rating work rate standards. For each end product, this sheet retraces the filtering steps used to remove outlier stations and recalculate the controlled national standards.
- *Rating Control* displays the “control sheets” for all rating work rate standards. For each end product, this sheet retraces the filtering steps used to remove outlier stations and recalculate the controlled national standards.

4.1.3 Data Extracts

The workbook contains 11 worksheets that provide aggregations and structured breakouts of the raw input data for use in calculating work rate standards. The worksheets in this section are as follows:

- *RO WRS NR* shows the direct labor (unloaded) non-rating work rate standards for all final end products.
- *RO WRS Rat* shows the direct labor (unloaded) rating work rate standards for all final end products.
- *Loading_Factors* shows the derivation of loading factors that account for time spent on certain activities not related to final end products. These adjustment factors are computed by station and for the Nation as a whole.
- *EP by Act* shows a breakdown of the time spent on each activity for each adjudication end product.
- *EP by Team* shows a breakdown of the time spent by each team for each adjudication end product.
- *Team by EP* shows a breakdown of the time spent on each adjudication end product by each team.
- *Hours OtherWork* shows the number of hours spent on each of the activities that are not used in loading factor computations and not related to final end products. These activities include those that fall under Indirect Labor, Other Measured Work, Outreach, Training, Unmeasured Work and Special Field Exams.
- *RO Counts* shows the number of work measurement observations by regional office for all final end products. The observations for Federal and Court Account Audits are grouped together because only a single work count was provided for the two activities combined. Observations for Special Field Exams were omitted because Special Field Exams are measured hour for hour and do not have a work rate standard. The observations are grouped across activities.
- *RO Rating Counts* shows the number of rating work measurement observations by regional office for all final end products. Rating observations included only those recorded under the Prepare Rating (1d), Prepare/Review SOC/SSOC (2c), Conduct Hearing (2g), DRO Review (2h), or Prepare Rating -Appeal (2i) activities; or the Develop Claim—Not by Telephone (1c), Development of Appeal (2b), and Certification (2e) activities when conducted by RVSRs or DROs.
- *RO Non Rating Counts* shows the number of non-rating work measurement observations by regional office for all final end products. These figures are computed as the total observations (from *RO_Counts*) minus the rating observations (from *RO_Rating_Counts*).

- *RO Counts Team* shows the number of work measurement observations by work team for all end products, including administrative EPs, Special Field Exams and Estate Management.

4.1.4 Characteristics of Former-VSD Work

The workbook contains seven worksheets that provide detail on the attributes of former-VSD work.⁶ The worksheets show a percentage breakdown of the time spent on claim-related and non-claim-related work. For claim-related work, the worksheets provide a breakdown of the adjudication EPs to which the work was related. For non-claim-related work, the worksheets show a breakdown by major subject. All breakdowns are shown for each station participating in the study and for the Nation as a whole. Each worksheet contains data for a different end product. The worksheets are organized as follows:

- *Telephone Calls* provides detail about the composition of telephone interview work.
- *Personal At Office* provides detail about the composition of “at-office” personal interview work.
- *Personal Away* provides detail about the composition of “away-from-office” personal interview work.
- *Personal Patient* provides detail about the composition of patient interview work.
- *Controlled Corr* provides detail about the composition of controlled correspondence work.
- *Non-Controlled Corr* provides detail about the composition of non-controlled correspondence work.
- *PA&FOIA Corr* provides detail about the composition of Privacy Act/Freedom of Information Act (FOIA) correspondence work.

4.1.5 Input Data

The five worksheets at the end of the notebook contain the inputs to the work measurement calculations. Specifically:

- *WorkCounts* contains the completed work count figures for each end product at each regional office.
- *StaffHours* contains the total staffing hours during the study period for each participating station. The hours are adjusted for overtime worked during the study, compensatory time earned, borrowed time, compensatory leave used, loaned time, holiday hours, annual leave, sick leave, authorized absence, and non-GOE hours in the study. The manually collected file clerk, work study, and Virtual VA hours listed were incorporated into the loading factors computation in the *Loading Factors* worksheet.
- *Obs Data* contains a complete breakout of all work measurement observations collected during the study. Observation counts are shown by activity and by end product (where applicable) for each participating regional office.
- *Rating Obs Data* contains a complete breakout of all rating work measurement observations collected during the study. Observation counts are shown by activity and by end product (where applicable) for each participating regional office. Rating observations included only those recorded under the Prepare Rating (1d), Prepare/Review SOC/SSOC (2c), Conduct Hearing (2g), DRO Review (2h), or Prepare Rating -Appeal (2i) activities; or the Develop Claim—Not by Telephone (1c), Development of Appeal (2b), and Certification (2e) activities when conducted by RVSRs or DROs.
- *Team Obs Data* contains a complete breakout of all work measurement observations collected during the study. Observation counts are shown by activity and by end product (where applicable) for each work team.

4.2 Recalculating Work Rate Standards

As explained in Section 4.1, the workbook displays three different “views” of the final work rate standards: 1) uncontrolled standards that include all stations participating in the work measurement study; 2) controlled standards that show the final results after outlier stations have been removed using the filtering process; and 3) “selected” standards that show the results for a group of stations chosen in the analysis. The workbook contains worksheets to add and remove stations for the “selected” standards. The workbook also provides the capability to compute work

⁶In all cases, the breakouts refer to the distribution of work time, not the distribution of EP counts. For example, the figures show that 42 percent of telephone interview time is spent on claim-related calls in the month of April. This does not mean that 42 percent of calls are claim-related, since such calls may take a different amount of time than other calls.

rate standards under alternative loading methods. These two scenarios are described in Sections 4.2.1 and 4.2.2, respectively.

4.2.1 Adding and Removing Stations

The *Selected Non-Rating* and *Selected Rating* worksheets provide the capability for analysts to choose which stations will be included in the final work rate standards. These worksheets can be used as an alternative to the controlled or uncontrolled standards that the model also provides. Figure 4–1 shows a screenshot of the *Selected Rating* worksheet. To use these sheets, enter 1 to include a station in the work rate standard calculation for a particular EP, and 0 to exclude it.

Figure 4–1. Select Stations for WRS Computation

EP	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
010	1															7.00
020	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	5.41
030	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
040	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2.00
050	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1.19
060	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2.67
070	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
080	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.04
090	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
100	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.04
110	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1.00
120	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
130	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
140	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
150	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
160	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.06
170	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.01
180	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	5.82
190	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2.04
200	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2.78
210	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.60
220	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.13
230	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
240	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
250	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
260	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1.88
270	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1.56
280	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1.37
290	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.80
300	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2.10
310	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
320	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
330	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.00
340	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0.07

4.2.2 Changing Loading Methods

The general process for loading work rate standards is as follows:

- Allowances were computed as the proportion of total non-leave observations spent on the following four activities: Personal Needs (Activity Code 8a), Office Maintenance (8b), Unavoidable Delay (8c), and Self-Development/Informal Training (8d).
- Adjustments for administrative EPs 330, 400, 930, and 960 were computed by prorating the observations over the time spent on all other adjudication EPs. Separate adjustments were computed for rating and non-rating time.
- Estate Management (9f) observations were prorated over the time spent on all other Fiduciary and Field Exam (F&FE) EPs (EPs 1000 through 1008 and Activity Code 9c), excluding Special Field Exams (9d).⁷
- Observations for EP 689 (Gulf Environment) were spread over EPs 010, 020 and 110. This adjustment was necessary because there were no completed work counts for EP 689 during the study period, therefore precluding the calculation of a work rate standard for this EP.

The loading method described above is known as Method 1 and is the default in the workbook. The workbook provides the capability to use four other methods, as follows:

- Method 2: Same as Method 1, with Files activities spread proportionately over non-rating time; Virtual VA time is spread over non-rating PMC EPs.⁸
- Method 3: Same as Method 1, with Files and Supervision activities spread proportionately over non-rating time; Virtual VA time is spread over non-rating PMC EPs.

⁷Special Field Exams are measured in hours spent and do not have a work rate standard.

⁸PMC EPs include 050, 150, 154, 155 and 314.

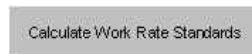
- Method 4: Same as Method 1, with Files activities spread proportionately over both rating and non-rating time; Virtual VA time is spread over both non-rating and rating PMC EPs.
- Method 5: Same as Method 1, with Files and Supervision activities spread proportionately over both rating and non-rating time; Virtual VA time is spread over non-rating and rating PMC EPs.

To change loading methods, enter the number of the desired method in cell K1 on the *NationalWRS* worksheet.

4.2.3 Recalculating Work Rate Standards

To recalculate the work rate standards after changing parameters, press the “Calculate Work Rate Standards” button on the *NationalWRS* worksheet. The button is located underneath cell K1 and is shown in Figure 4–2.

Figure 4–2. Recalculate WRS Button



Depending on the processing speed of the computer, the calculation may take more than a minute to finish. The worksheet will display the message shown in Figure 4–3 when the calculation process is complete. Wait for this message before continuing with other operations in the workbook.

Figure 4–3. Calculations Complete Indicator



5. DRAFT WORK RATE STANDARDS

This section summarizes the work measurement study data collected and presented in the worksheets in Appendix A, including a summary of the:

- Total number of observations per RO.
- Work rate standards.

5.1 Number of Observations per RO

Tables 5–1 and 5–2 show the total number of observations recorded at each RO, broken down by observations collected from EWMA and paper forms, and abstracted from manually-collected file clerk, work study, and Virtual VA hours on duty.⁹ The tables also show the total non-leave observations recorded at each RO (all observations excluding Activity Code 8q: Lunch/Leave/Loaned Time/Not Part of Study). Table 5–1 presents the figures from the first file (15 ROs surveyed in April) and Table 5–2 presents the figures from the second file (three ROs/PMCs surveyed from February through May).

Non-leave observations totaling 639,145 were recorded at all 15 ROs during the April study period. Approximately 6.3 percent of the total non-leave observations came from paper forms. Approximately 10.8 percent of the total non-leave observations came from paper forms and file clerk, work study, and Virtual VA hours combined.

⁹Portions of file clerk, work study, and Virtual VA time were distributed to lunch, leave, breaks, and other related “downtime” activities (Activity Codes 8q and 8a–8d).

Table 5-1. Number of Observations per RO—April 2004

RO	EWMA	Paper Forms	Files/Work Study/ Virtual VA	Total	Total Non-Leave
Atlanta	35,377	2,082	2,400	39,859	36,927
Baltimore	24,857	592	1,416	26,865	25,001
Buffalo	27,629	2,652	0	30,281	26,894
Denver	27,655	9,025	1,241	37,921	34,244
Jackson	31,985	2,020	391	34,396	31,633
Little Rock	26,187	4,176	623	30,986	28,950
Manchester	8,764	485	304	9,553	8,779
Milwaukee	61,606	1,619	3,750	66,975	61,925
Muskogee	55,904	3,510	2,800	62,214	57,558
Philadelphia	84,704	3,252	7,274	95,230	87,832
Reno	19,128	0	1,184	20,312	18,961
Roanoke	54,752	4,452	2,902	62,106	57,029
Seattle	46,892	5,799	1,136	53,827	49,154
St. Louis	53,040	3,474	394	56,908	52,472
St. Paul	60,556	1,407	4,810	66,773	61,786
Total	619,036	44,545	30,625	694,206	639,145

Non-leave observations totaling 837,300 were recorded at all three ROs/PMCs during the February through May study period. Approximately 2.9 percent of the total non-leave observations came from paper forms.¹⁰ Approximately 9.7 percent of the total non-leave observations came from paper forms and file clerk, work study, and Virtual VA hours combined.

Table 5-2. Number of Observations per RO/PMC—February-May 2004

RO	EWMA	Paper Forms	Files/Work Study/ Virtual VA	Total	Total Non-Leave
Milwaukee	249,889	6,853	14,689	271,431	251,691
Philadelphia	333,966	13,068	27,435	374,469	345,074
St. Paul	236,912	5,095	19,006	261,013	240,535
Total	820,767	25,016	61,130	906,913	837,300

5.2 Summary Work Rate Standards

Tables 5-3 and 5-4 show the direct labor (unloaded) work rate standards for each EP at each regional office for the first file (15 ROs surveyed in April). Table 5-3 lists the non-rating work rate standards and Table 5-4 lists the rating work rate standards.

¹⁰One envelope of May St. Paul paper forms was lost in the mail. Missing observations were accounted for by increasing the number of existing May paper observations proportionally based on the average daily observations from February through April.

**Table 5-3. Direct Labor Work Rate Standards, Non-Rating—April 2004
[Being retained in the Committee files]**

Table 5-4. Direct Labor Work Rate Standards, Rating—April 2004 [Being retained in the Committee files]

Tables 5-5 and 5-6 show the direct labor (unloaded) work rate standards for each EP at each regional office for the second file (three ROs/PMCs surveyed from February through May). Table 5-5 lists the non-rating work rate standards, and Table 5-6 lists the rating work rate standards.

**Table 5-5. Direct Labor Work Rate Standards, Non-Rating—Feb-May 2004
[Being retained in the Committee files]**

Table 5-6. Direct Labor Work Rate Standards, Rating—Feb-May 2004 [Being retained in the Committee files]

For the 15 ROs surveyed in April, Tables 5-7 through 5-11 show the work rate standards for each EP, reported both as uncontrolled and controlled figures—that is, before and after the application of Step 7 in the Computational Approach—and using each of the five loading methods. For each EP, ROs with a work rate standard of zero were the first ones removed in the control filter process.

NOTE: The unusually high non-rating work rate standard for Non-Program field exams may be attributed to either incorrect user recording of work observations or to a very low number of completed work counts during April 2004. Work rate standard computations using low work counts are especially susceptible to error.

Table 5-7. Work Rate Standards—Loading Method 1—April 2004 [Being retained in the Committee files]

Table 5-8. Work Rate Standards—Loading Method 2—April 2004 [Being retained in the Committee files]

Table 5-9. Work Rate Standards—Loading Method 3—April 2004 [Being retained in the Committee files]

Table 5-10. Work Rate Standards—Loading Method 4—April 2004 [Being retained in the Committee files]

Table 5-11. Work Rate Standards—Loading Method 5—April 2004 [Being retained in the Committee files]

For the three ROs/PMCs surveyed from February through May, Tables 5-12 through 5-16 show the work rate standards for each EP, reported both as uncontrolled and controlled figures—that is, before and after the application of Step 7 in the Computational Approach—and using each of the five loading methods. For each EP, ROs/PMCs with a work rate standard of zero were the first ones removed in the control filter process.

NOTES: Both non-rating and rating national work rate standards for EP 010¹¹ for the three ROs/PMCs surveyed from February through May are markedly higher than those computed for the 15 ROs surveyed during April:

- The higher non-rating work rate standard for the 4-month study period stems from a greater amount of time spent on EPs 010 and 011 during February at Philadelphia and St. Paul, and a low number of completed work counts across all three stations. C&P hypothesizes that the return to normal work following the moratorium on particular EPs during Fall of 2003 may have affected the way work was done in the immediate months following the moratorium's removal.
- The higher rating work rate standard for the 4-month study period results from extremely high standards for Philadelphia. A disproportionately greater amount of time was spent on EPs 010 and 011 at Philadelphia. Philadelphia spent more than four times longer on EP 010s and more than 11 times longer on EP 011s than did St. Paul and Milwaukee, while the completed work counts produced at Philadelphia did not increase proportionally.¹² C&P attributes this greater amount of rating time spent on EPs 010 and 011 to the existence of a Resource Center located at the Philadelphia RO.

¹¹The work rate standard for EP 010 includes observations recorded for EP 011.

¹²EP 011 can be the most time consuming as it contains more issues than EPs 010 and 110.

Table 5-12. Work Rate Standards—Loading Method 1—Feb-May 2004 [Being retained in the Committee files]

Table 5-13. Work Rate Standards—Loading Method 2—Feb-May 2004 [Being retained in the Committee files]

Table 5-14. Work Rate Standards—Loading Method 3—Feb-May 2004 [Being retained in the Committee files]

Table 5-15. Work Rate Standards—Loading Method 4—Feb-May 2004 [Being retained in the Committee files]

Table 5-16. Work Rate Standards—Loading Method 5—Feb-May 2004 [Being retained in the Committee files]

APPENDIX A: EXCEL ANALYSIS WORKBOOKS

(Two additional files are provided under separate cover.)

