

**DOCUMENT TAMPERING AND MISHANDLING AT  
THE U.S. DEPARTMENT OF VETERANS AFFAIRS**

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**JOINT HEARING**  
BEFORE THE  
SUBCOMMITTEE ON DISABILITY ASSISTANCE  
AND MEMORIAL AFFAIRS  
AND THE  
SUBCOMMITTEE ON OVERSIGHT AND  
INVESTIGATIONS  
OF THE  
COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
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# **DOCUMENT TAMPERING AND MISHANDLING AT THE U.S. DEPARTMENT OF VETERANS AFFAIRS**

**TUESDAY, MARCH 3, 2009**

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

The Subcommittees met, pursuant to notice, at 1:35 p.m., in Room 334, Cannon House Office Building, Hon. John J. Hall [Chairman of the Subcommittee on Disability Assistance and Memorial Affairs] presiding.

Present from Subcommittee on Disability Assistance and Memorial Affairs: Representatives Hall, Halvorson, Kirkpatrick, Lamborn, and Bilbray.

Present from Subcommittee on Oversight and Investigations: Representatives Mitchell, Space, Walz, Roe, and Bilbray.

## **OPENING STATEMENT OF CHAIRMAN HALL**

Mr. HALL. Good afternoon. The Committee on Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs and the Subcommittee on Oversight and Investigations Hearing on Document Tampering and Mishandling at the Veterans Benefits Administration (VBA) will now come to order. I would ask everyone to rise for the Pledge of Allegiance. The flags are at both the front and rear of the room.

[Pledge of Allegiance.]

I welcome you today for our first hearing during the 111th Congress, and I am pleased to be joined by my colleague, Harry Mitchell, Chairman of the Oversight and Investigations Subcommittee. We expect to be joined at some point by the Chairman of the full Committee, Congressman Bob Filner, who has been leading the way in making the U.S. Department of Veterans Affairs (VA) an advocacy system rather than an adversarial one. Of course, we have our Ranking Member from the Disability Assistance and Memorial Affairs Subcommittee, Congressman Lamborn, and the Ranking Member of Oversight and Investigations, Mr. Roe. I welcome all of you.

Congress' accomplishments for veterans last year were great and substantial. I am eager to see implementation of P.L. 110-389, the Veterans Benefits Improvement Act of 2008, that will take steps in righting the many wrongs in the VA claims processing system.

However, there is still much more room for improvement and this promises to be a very active Congress with a new Secretary we are all eager to work with.

It is regrettable that we are starting this Congress with so many untoward problems within the VBA claims processing system making news headlines. In the last few months, we have tracked the problems brought to our attention with misdating of claims at the New York Regional Office (RO), documents wrongly placed in shredder bins, and denying widows their survivor benefits.

It pains me as a representative from the State of New York to say that the situation in New York was a clear attempt by managers to fudge performance numbers. The incorrectly entered data made the Regional Office look like it took fewer days to process claims than it did in actuality, yet still beyond acceptable levels to me or to most veterans. Although veterans were not directly harmed by this practice, perpetrators of this kind of dishonesty impact the entire veterans' community's ability to trust the institution charged with its welfare. This is shameful.

On the heels of this revelation, there were reports of documents inappropriately placed in shredder bins, many needed to process claims, that would have been returned or should have been returned to the veteran, but were dumped for shredding. As a result, some veterans' claims were harmed and adjudication did not properly take place. This is even more shameful.

And finally, we saw headlines about widows being cheated out of millions of dollars over a 12-year period while the VA ignored Congress' intent to help these very same widows. VA explains this oversight as a computer glitch. But again the result is shameful.

The misdating, shredding, and glitches that the media had recently reported, I am afraid, are only the tip of the iceberg. I have heard too many accounts from veterans and their survivors about missing, lost, or destroyed files, and VA sending them multiple requests for information then still not knowing where a file is or who had it last.

Even when the veteran or survivor has sent documents return receipt requested, VA manages to not know their whereabouts. Besides the infamous fire in St. Louis and the current shredding issue, claim folders have managed to be lost or destroyed in many other ways over the years. This has included records being misfiled or misplaced within a Regional Office, lost in transit between Regional Offices, medical, pension, insurance or debt management centers, the Board of Veterans' Appeals, the Appeals Management Center, or the U.S. Court of Appeals for Veterans Claims, not to mention the issues with the U.S. Department of Defense (DoD) sharing.

Even further beyond comprehension are the accusations by veterans and their families that VA employees would purposefully and maliciously destroy, falsify, or steal a claim folder to avoid granting a benefit. A lot of VA employees touch a claim folder, but rarely is anyone held accountable or responsible when it is lost or destroyed. Furthermore, we are still talking about an outdated system that is heavily dependent upon paper records. So it is easy to conceive how a paper document can be mishandled. An electronic system from application to adjudication could mitigate some of

these losses if properly implemented, unlike the way it was handled for widows expecting a month of death benefit or at the RO in New York. This is where new approaches to leadership and oversight are crucial and accountability is essential.

Today's witnesses will provide us with an overview of these problems. We will hear from the veterans' service organizations and the American Federation of Government Employees (AFGE) who will provide us with insights into how veterans and their dependents are harmed when VA mishandles their documents and how improvements can be made to the system.

Next, the VA Office of Inspector General (OIG) will share what it has learned about document mishandling. Finally, the Under Secretary for Benefits and the Systematic Technical Accuracy Review Office will give us their feedback on these problems and hopefully outline a strategic plan for the future that will correct the records mismanagement problems we have seen in the past. So I am grateful that the Deputy Under Secretary is here himself today because the accountability issue begins with top leadership.

I have been on a track to modernize the VBA's antiquated claims processing system and envision the VA as an agency that we as a nation are proud of in the way that it serves the welfare of our disabled veterans. When it comes to discharging those responsibilities, shameful acts are what should be archaic practices. We look forward to eliminating those practices.

I now yield to Congressman Mitchell, the Chairman of the Subcommittee on Oversight and Investigations, for his opening statement.

Mr. Mitchell.

[The prepared statement of Chairman Hall appears on p. 40.]

#### **OPENING STATEMENT OF CHAIRMAN MITCHELL**

Mr. MITCHELL. First, thank you Chairman Hall and the Disability Assistance and Memorial Affairs Subcommittee for working with the Oversight and Investigations Subcommittee to convene this hearing.

For too long, the spotty record of the Department of Veterans Affairs has led veterans and observers to view the Department as the worst kind of bureaucracy, massive, aloof, and unaccountable. Today, we have the opportunity to address a number of bureaucratic shortcomings and to take a step toward a more personable, accessible, and accountable VA.

Some mistakes have already been addressed. I am encouraged that the VA is taking steps to compensate the widows of veterans whose benefits were wrongly docked when their spouses passed away. I look forward to receiving a status update from the VA.

However, we now have learned that the shredding of documents may only be the tip of a very large iceberg. VA's Inspector General tells us that in July of 2007, the Detroit Regional Office had a "mail amnesty" during which employees could turn in unprocessed mail and documents without repercussion.

Detroit Regional Office employees produced almost 16,000 items, 16,000. Among these were 700 claims and 2,700 medical records and/or pieces of medical information. None of these claims or documents was in the VBA information system or associated claims

files. The OIG was told by the VBA regional director that there were amnesties at other Regional Offices as well.

Obviously, we are going to have to get complete information from VA about these amnesties. But it is impossible not to be shocked by the number from Detroit. Shredding documents or burying them in the bottom drawer is a breach of trust by the VA. Whether that breach of trust comes as a consequence of inadequate training or negligent or deliberate behavior, Congress must not and will not tolerate it.

We will also hear testimony about data tampering that inaccurately reflected claims processing speeds at Regional Offices. A decision by management to lie about performance indicates creeping institutional decay that must be rooted out before it further erodes quality of care. The VA must restore integrity to its systems—its claim system and redeem the trust of veterans it serves.

I am eager to hear a detailed account of these issues from the Inspector General's office. And I trust that the VA will provide a candid explanation about what went wrong and how they would ensure it never happens again.

I am also eager to hear from the veterans service organizations (VSOs) about the impact of these failures on the veterans' community and from the American Federation of Government Employees about the effectiveness of VBA policy.

Mistakes like these simply need not happen. They are avoidable as they are awful. And they rob us of time that could otherwise be spent planning outreach to veterans, easing the transition from soldier to civilian, or constructing a 21st Century benefits program.

But, I am heartened by the vision, dedication, and know-how that Secretary Shinseki brings with him to the task of serving America's veterans. I am hopeful the VA can avoid similar pitfalls under his leadership.

Thank you to our panelists for appearing today. I look forward to working with you to achieve the openness, accountability, and action that veterans deserve from the VA.

[The prepared statement of Chairman Mitchell appears on p. 41.]

Mr. HALL. Thank you, Chairman Mitchell, Chair of the Subcommittee on Oversight and Investigations.

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

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

Mr. LAMBORN. Good afternoon, Mr. Chairmen, and thank you. I am very happy to be back as Ranking Member of the Subcommittee on Disability Assistance and Memorial Affairs. I greatly enjoyed the favorable rapport we developed last Congress and the bipartisan manner in which you and I and our staffs worked together. I look forward to another productive session.

I would like to welcome our colleagues from the Subcommittee on Oversight and Investigation and all of our witnesses who are here today, including my counterpart on that Subcommittee, the Ranking Member Dr. Phil Roe of Tennessee.

Mr. Chairman, we made a lot of progress in the last Congress toward modernizing and improving the VA claims processing system. And it is my hope that the reforms we put in place in Public Law



110-389 will help prevent future document management problems like the ones we are examining today.

I would also like to thank you for endorsing my idea to require VA to move toward a paperless rules-based adjudication system. While the paperless system is not a panacea, you and I both know that if VA's files were all electronic, the shredding incident could have been avoided. I thank VA for acknowledging that in their testimony.

When a veteran submits a claim for disability compensation, they must be able to have trust that VA will adjudicate their claims in a timely and accurate fashion. Unfortunately, the shredding accident has violated this trust for many veterans. And it is now VA's job to regain it.

What troubles me the most about the shredding incident is that the number of documents VA found during its spot check was merely a 1-day snapshot of what appears to be an ongoing problem. VA will probably never know how long this mishandling has been going on or how widespread the practice was.

However, I do applaud VA for their swift action in removing the employees that were responsible for the documents that were found. I find it very unfortunate that the actions of a few have tarnished the work of so many dedicated VA employees.

Veterans need to be able to trust the integrity of the VA system. And I believe they are on the path to regaining this trust. I do believe, however, that VA's current plan to have every document signed off by two people before it can be shredded is potentially inefficient. I encourage the VA to find a more reasonable approach to protecting claimant's files without adversely affecting production. And I hope today's discussion will produce some possible alternative solutions.

Another focus of this hearing is the misdating of claims at the New York Regional Office and other offices around the country. As disturbing as this is, I am relieved to know that the actions of a few individuals have not adversely affected any veterans or survivors. However, these actions underscore the need to review and possibly change VA's work management program. Such review was mandated by Public Law 110-389. And I look forward to hearing more about this review once it is completed.

I am reassured by the findings of the Inspector General that the problem is not believed to be systemic and that the employees involved in the backdating have been removed.

That concludes my statement, Mr. Chairmen. I thank the witnesses for their attendance here today. And I look forward to their testimony. And I yield back.

Mr. HALL. Thank you, Mr. Lamborn. Thank you for your steadfast advocacy of the paperless system that we are all hoping to move toward.

Now I would like to yield to the Ranking Member of the Subcommittee on Oversight and Investigations, Congressman Roe, for his statement.

[The prepared statement of Congressman Lamborn appears on p. 42.]

**OPENING STATEMENT OF HON. DAVID P. ROE**

Mr. ROE. Thank you for yielding, Mr. Chairman.

I would like to start by saying that I am looking forward to working with the Members of both of the Subcommittees here today, and particularly with you, Mr. Mitchell, and the other Members of the Subcommittee on Oversight and Investigations as the Ranking Member of the Subcommittee.

I understand that you and my predecessor, Congresswoman Ginny Brown-Waite, had an excellent working relationship on this Committee. And I hope that we can continue in that vein as we conduct oversight on issues relating to the Department of Veterans Affairs, and work to assist those who sacrificed so much for the good of our country, our Nation's veterans. We owe them no less.

The issue at hand, document mishandling and shredding at the Department of Veterans Affairs is one of great concern. When these issues came to the forefront of our scope back in early October of last year, an investigation by the Office of the Inspector General showed that documents necessary for processing claims were found in shredding bins at several Veteran Benefits Administration facilities. Further issues arose from documents with an adjusted date-of-claims, which initiated a request by the Ranking Member Buyer on October 14, 2008, for an OIG investigation into the issue.

Our Nation's veterans deserve better than this. The mishandling of their claims documents is inexcusable. The VA is responsible for assuring our Nation's veterans that they will be given every opportunity to submit these claims and have their complete claims file reviewed in a timely manner. I appreciate that the former Secretary Peake took immediate action to address these issues. And I look forward to hearing from today's witnesses on what further actions have been taken to rectify this situation.

Again, thank you Mr. Chairman, and I yield back.

[The prepared statement of Congressman Roe appears on p. 42.]

Mr. HALL. Thank you, Dr. Roe.

I will now recognize other Members who would like to make an opening statement. Mrs. Halvorson?

**OPENING STATEMENT OF HON. DEBORAH L. HALVORSON**

Mrs. HALVORSON. Thank you, Mr. Chairman. I just want to say as one of the new people here that I'm very pleased that the VA seems to understand the seriousness of the situation. And I am very anxious to be a part of figuring out how it is that we continue to work toward eliminating this sort of problem and bring about trust back to the situation.

Mr. HALL. Thank you, Congresswoman.

Mr. Bilbray.

Mr. BILBRAY. Mr. Chairman, I have no opening statement. I just ask for—I would like to apologize. I am going to need to leave and enter this hearing. I just had a report by the Marine Corps of an incident—an aircraft incident that had fatalities. And so I would—it is just being released today, so I will be responding to that. Just so you know that I am not trying to be rude. It is just part of the job. Thank you.

Mr. HALL. Okay. Thank you for the explanation in advance. You will be excused without any problem.

Mrs. Kirkpatrick.

**OPENING STATEMENT HON. ANN KIRKPATRICK**

Mrs. KIRKPATRICK. Thank you, Mr. Chairman. I am honored to be here today with you and the other distinguished Members on the Subcommittee on Disability Assistance and Memorial Affairs. Thank you to all of you for taking the time and making the journey to be with us today.

Events like those discussed today remind me why this Committee's work is so important. We are here to ensure our VA operation and our country live up to and fulfill our commitment to our veterans. This is an important opportunity to discuss and evaluate the impact of VA policies on the real-life experience of veterans and their families.

Trust needs to be the starting point when it comes to our veterans. When they sign up, our servicemembers put the entirety of their trust in their government. They trust that while serving they will be well equipped, that they will deploy responsibly, and they will be treated with dignity and fairness after their tour, enlistment, and service is complete.

And in return for that trust, our servicemembers give entirely of themselves. I have met with many veterans. And no matter how many times I hear their stories, I am reminded that the pride, honor, and sacrifice with which they have lived their lives is truly special. We owe our veterans for their courage, their willingness to serve, and sacrifice.

Now I don't have to tell any of the veterans here that there is no place where rumors circulate faster than inside a military barracks or inside a Veterans of Foreign Wars hall.

So when veterans and servicemembers hear about things like shredding of claims documents, backdated forms, or unpaid widows, it creates cynicism within the ranks and among our veterans. It hurts recruiting numbers. But most of all and most importantly, it undermines the compact of trust we have entered into with our veterans.

To the leadership of the Veterans Affairs, I am heartened by your quick action. I know that the behavior discussed today is not representative of your leadership nor the vast majority of the employees within the VA.

However, I don't think it can be repeated enough just how serious these events are. This past Saturday I had an opportunity to visit the veterans' hospital in my district, which is in Prescott, Arizona. And I also went to the American Legion and visited with veterans there.

The veterans I represent expressed skepticism and often frustration regarding the distant, often faceless claims process. To gain back their trust, I hope you understand that you will have to work twice as hard to not only hold accountable those responsible, but to find and address the underlying issues that caused this to happen in the first place.

Chairman Hall, I look forward to working with you and learning from my colleagues on both sides of the aisle. I hope we can take the extra step, as our veterans have to make sure that they receive the benefits they have earned.

Thank you and I yield back my time.  
 Mr. HALL. Thank you, Mrs. Kirkpatrick.  
 Mr. Walz, do you have an opening statement?

**OPENING STATEMENT OF HON. TIMOTHY J. WALZ**

Mr. WALZ. Just a brief one. And thank you, Mr. Chairman, both Chairmen and both Ranking Members, for your ever diligent work, and to the staffs on both these Subcommittees. You have been absolutely relentless in making sure we get it right for our veterans. So I thank you for that. And for all of our witnesses who are here today.

I would have to say and I would associate myself with—Mr. Lamborn brought up a very good point, I think. The incredible work that the VA does on behalf of our veterans. And I see it every day. When I am out there I talk to our veterans. Rightfully called the best health care anywhere. And we know that is the case. And we also know that it is our job and it is these VSOs' job to not only be the biggest supporters but to be the harshest critics.

Painting it with a broad brush. Heaven knows this group up here, we get painted with a pretty broad brush. But the fact of the matter is we have taken jobs of leadership, both the VA and us sitting up here. And it is a zero sum game. We always have to strive for absolute perfection when it comes to the care of our veterans. We may not always get there. But it has to be in the best efforts. So this is an important issue we are dealing with. It is a challenging one. Again, I would associate myself with my colleagues on the VA's effort on this and their forthrightness is greatly appreciated.

But we have got much work to do. And especially in this environment where reform and efficiency are going to be the key. There are scarce resources. They must be delivered correctly. And we have to find a way to get better at that. And I am still baffled that I can send a package anywhere in the world and get online and track that through UPS and know right where it is and who signed it. And yet I have got veterans 2 years later wondering where in the heck their file is, who saw it, and what is going on with it.

So we have got to just get this done. We have got to move forward. And if you don't need any more proof than that, I will tell you I have seen this group speak often. And Ms. Witt is going to speak in a moment. When our Nation's Gold Star Wives have to come in front of us and tell us what is going wrong and the difficulties they have receiving benefits after their spouses gave their life in defense of this country, the bottom line is we are wrong. And it needs to be fixed. And we need to get there together. Bringing the two Subcommittees together is absolutely what we need to do, cut through this, find some solutions, cut down on the backlogs of claims, get them right, and get the trust built back up. That is our responsibility. And that is our charge.

So, Mr. Chairman, thank you for holding this hearing. And I yield back.

Mr. HALL. Thank you, Mr. Walz. I think you may have come up with the solution. It is sort of like that commercial I have been seeing on TV where you put a delivery company in charge of getting kids to schools.

Mr. Space, I yield to you for an opening statement.

Mr. SPACE. In associating myself with remarks of Mr. Walz, I yield my time.

Mr. HALL. Thank you, Mr. Space. Thank you to all of our witnesses for being here today. I would remind you that your complete written statements will be made a part of the hearing record, so you can limit your remarks. That way we will have sufficient time to follow up with questions once everyone has had the opportunity to provide their testimony.

On our first panel, is Mr. Kerry Baker, Assistant National Legislative Director for Disabled American Veterans (DAV); Mr. Ronald Abrams, Joint Executive Director for the National Veterans Legal Services Program (NVLSP); Ms. Kathryn Witt, Co-Chair, Government Relations Committee for Gold Star Wives of America, Inc.; and Ms. Geneva Moore, Senior Veterans Representative—Service Representative for the Veterans Benefits Administration Regional Office in Winston-Salem, North Carolina.

Welcome, Mr. Baker, you are now recognized for 5 minutes.

**STATEMENTS OF KERRY BAKER, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; RONALD B. ABRAMS, JOINT EXECUTIVE DIRECTOR, NATIONAL VETERANS LEGAL SERVICES PROGRAM; KATHRYN A. WITT, CO-CHAIR, GOVERNMENT RELATIONS COMMITTEE, GOLD STAR WIVES OF AMERICA, INC.; AND GENEVA MOORE, SENIOR VETERANS SERVICE REPRESENTATIVE, VETERANS BENEFITS ADMINISTRATION REGIONAL OFFICE, WINSTON-SALEM, NC, U.S. DEPARTMENT OF VETERANS AFFAIRS, ON BEHALF OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

**STATEMENT OF KERRY BAKER**

Mr. BAKER. Mr. Chairman and Members of the Subcommittees, it is a pleasure to be here today on behalf of the DAV. I look forward to discussing the recent document tampering and mishandling by the VA.

The issues of concern began on or about August 20th, 2008, when VA's Office of Inspector General initiated an audit of mail processing at four different locations. The team found 36 pieces of active mail and 93 other pieces of documents in the shred bins.

The documents identified were both original claims and evidence in support of existing claims. The VA's Secretary ordered all shredding stopped followed by a search of all VA Regional Offices where approximately 500 other documents were found marked for unauthorized shredding.

The VA then drafted an action plan that implemented numerous overlapping procedures to eliminate any repeat records mishandling. The draft plan even included the creation of additional positions within VA that require active, hands on management of all documents marked for destruction.

In addition to the action plan, special but temporary procedures were also put in place concerning VA claimants who assert they have been harmed by these mishaps.

The DAV will not attempt to minimize the severity of this situation. The questions of how long this has been going on and how many VA claimants have been affected will forever go unanswered.

However, scrutinizing and casting blame is easy. If we all are to act as leaders in the veteran community, then we must recognize the challenge before us. Not merely how to prevent such acts in the future, but how to recognize the faults in the current system that allow these actions to take place. Once acknowledged and understood, we must progressively change the structure to remove those faults. In our written testimony, we commended the VA for having detected these unlawful deeds through its own audit functions in implementing such a detailed plan meant to prevent similar actions in the future. We reiterate that commendation here today.

Nonetheless, we also recommended that Congress amend the law to punish VA employees who unlawfully withhold benefits from claimants, the same as it punishes those who unlawfully obtain benefits. The message must be that if you illegally destroy records, you will go to jail. Ultimately, the DAV believes these were desperate, albeit irresponsible and unlawful acts, of a workforce near its breaking point.

The solution is clear. The VA must go paperless. This has long been a goal of Congress and the VA. The VA must be up for the challenge. And Congress must provide any needed funding.

The VA has already begun to utilize paperless solutions in many of its functions. While they are promising, each of these programs are small compared to the remaining bulk of VA's paper-locked workload.

The DAV believes the one solution that Congress must consider above all else is to immediately authorize and fund the formation of one or more large-scale imaging centers. Such facilities should have the sole function of transforming paper records into electronic format.

The formation of imaging centers could then free VA's moderate-sized staff who are tasked with receiving incoming and managing existing paper records. VA managers could then utilize the sizable workforce required for these functions to assisting claims development and adjudication.

The idea of transforming the paper-locked records system to an electronic system is neither novel nor new. Rather it has been the centerpiece of all legitimate discussions on improving the claims process. Ultimately denying earned benefits by illegally destroying records should serve as the wake-up call that signals the urgency of this overdue transformation. It should be one of the highest priorities within the Benefits Administration.

Mr. Chairman, that concludes my oral statement. It has been an honor to testify before you today. And I look forward to any questions you may have.

[The prepared statement of Mr. Baker appears on p. 43.]

Mr. HALL. Thank you, Mr. Baker.

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

#### **STATEMENT OF RONALD B. ABRAMS**

Mr. ABRAMS. Thank you Mr. Chairmen and Members.

I am honored to be here again today to talk about this very serious problem. Rather than go over what happened, I am going to try and focus on why it happened and what we can do about the problem.

I would like to start by reminding some of us who are my age that there was a television show back in the fifties, *Lucy*. And there was an episode in *Lucy* where she and her friend Ethel got a job at a candy factory producing candy. And they were working on a production line. And they were told that if they let one piece of candy pass them without getting wrapped, they would be fired. So what happened? First the candies came out slowly. And then the supervisor came by and yelled, "Let her roll." And the candies came out faster and faster. And no one could wrap them. So what did Ethel and Lucy do? They put them in their blouse; they put them in their pockets; they put them in their hat; and put the hat back on. They had one of those candy hats. And they ate them. They cheated.

This is analogous to what is happening in the VA. Too many claims, too fast, a production quota or—it is not a real quota. But it is a system that pushes production. It is not right.

We at NVLSP believe that longstanding VA policies were the major cause of this employee misconduct. Essentially the way the VA grants work credit and assesses the performance of VA workers and managers is the main problem.

In our experience, most of the problems are an attempt by VA workers to prematurely issue a decision on a claim before the evidence the VA is required to get to help the veteran is associated with the file. And this rush causes many incomplete VA claims adjudications. The VA emphasizes quantity over quality.

This work system, this work measurement system, needs to be changed. It needs to be changed, because it creates a cynicism among VA workers. They think it is okay to go too fast, to not get all evidence. And that might lead to hiding evidence, putting it in a drawer, throwing it away. We need to change that. We need to promote managers who manage people who do good work as well as fast work.

So here are some of the things that we think should be done. First, we need to hold VA adjudicators and managers accountable for the quality of their work. We need rational performance standards. The VA employees I know are good. They want to do a good job. But they are pressured to go very, very fast.

Second, they need to change the way they measure work. Work credit should not be granted until the actual appellate period ends. In that way all work will be done up front.

And third, the VA needs to create an independent quality review system that is outside the supervision of VBA.

Thank you for letting us testify today.

[The prepared statement of Mr. Abrams appears on p. 47.]

Mr. HALL. Thank you, Mr. Abrams. Good timing.

Now I would like to recognize Ms. Kathryn Witt for 5 minutes.

#### **STATEMENT OF KATHRYN A. WITT**

Ms. WITT. Thank you for allowing Gold Star Wives the privilege of testifying today.

I tend to agree with both of the people who spoke before me that the employees are under too much pressure. They do this to get rid of this back load. The inability to get rid of the back load tends to create a greater back load, because when they can't find the claim, then the veteran or the survivor resubmits it again and again. I have one lady that has been asked to prove that she was married to her husband and they had three children three separate times. I have another lady that has filed four appeals, two of which have been lost twice.

What they need to do is automate the system. Most records as they come in the door need to be scanned into a computer and assigned a line number or a customer number and cross indexed against the veteran's Social Security—the veteran's name and Social Security number so that they—the previous documents and claims can be retrieved.

They also need an explanation when they send a claim out of what they have actually paid, and why they paid it, and how. Usually known as a detailed—an itemized voucher. Our survivors frequently get claims they have no idea what they are for. And if they have several claims, they have no idea what has been processed. And they submit another claim.

We have concern about the backlog on—particularly on Dependency and Indemnity Compensation (DIC). It is taking a long time to process DIC. It often leaves the widows destitute. They have no other funds. If their husbands have been service connected and they have been at home caring for them, his check stops. And his compensation check stops. And they have no other income. We are concerned about the delay in that.

And we are concerned about the delays in processing CHAMPVA, which is the VA's health insurance. It frequently takes—I am hearing 9 to 12 months to get an application for CHAMPVA processed and approved. Both of those are pretty cut and dried claims that could easily be processed by computer.

I believe that every claim that the VA receives should be scanned—completely scanned into the computer. I think that is the only way you are ever going to get rid of this backlog. And then you can track them and cross index them by name and Social Security number. And at least respond to people when they call about their claim to say yes we have it, so that you don't get four or five more claims in.

Thank you.

[The prepared statement of Ms. Witt appears on p. 50.]

Mr. HALL. Thank you, Ms. Witt.

I would like to at this time recognize Geneva Moore, Senior Veterans Service Representative for the VBA Regional Office in Winston-Salem. You are recognized for 5 minutes.

#### **STATEMENT OF GENEVA MOORE**

Ms. MOORE. Thank you. Chairman Hall, Chairman Mitchell, Members of the Subcommittee, it is my honor and pleasure to be here today to testify on behalf of the many thousands of VBA employees represented by the AFGÉ.

I am a retired Marine Corps Master Sergeant and a proud Gulf War veteran. I am equally proud of the important work that I do



as a Senior Veteran Service Representative (VSR) to ensure that my fellow veterans are properly compensated for their service-connected disabilities.

More than half of the employees at our Regional Office are veterans and most are service-connected disabled. As veterans helping veterans, we who also borne the battle, do our jobs with tremendous sympathy and compassion for our fellow veterans.

AFGE absolutely does not condone what has gone on with regard to misplaced or shredded claims files. We are 150 percent committed to do all that we can do. And we want to help VBA fix this problem. But management is not willing to come to the table with us to come up with a workable solution to the shredding problem.

If I were in management, it would make perfect sense to me to solicit the input from the employees who actually process the claims. In the Marine Corps, we work as a team. And we are able to resolve problems through effective, positive communication. But VBA has shut us out completely, the employees.

I was at the VBA Academy when I first heard the shredding reports. Management presented us with the national rules of behavior and demanded that we sign on the spot without any training or opportunity to ask questions or seek further guidance. We were told that we would face discipline or possible termination if we did not sign this national rules of behavior.

When I returned back to my RO, we were given only 1-day notice of a desk audit. They told us that we had to clear our desks of every extraneous documents. In my case, I lost over 14 years of training materials and binders that I used for unique cases that helped me do my job effectively.

Management refused to give us 1 minute of deductible time away from case production to sort through our documents. We were extremely anxious about what would happen if management determined that we were not in compliance. So we did the only thing we could do, clear our desks of all training documents and materials.

High production quotas are no excuse for possible improper document shredding. However, more realistic quotas and better training will reduce the problems and enhance the overall effectiveness of the ROs.

When I served on the group investigating the Tailhook incident almost 20 years, we made the recommendation that manager training was essential to stopping that improper behavior. When VBA does provide training at the RO level, the quality is poor, because so many of the trainers are inexperienced and not subject matter experts.

I recommend that more training of the file clerks and the claims examiners, in the mail room who are the first in line to receive veterans' documents in evidence. They work under constant production pressures. Mistakes will continue to be made if the training does not get better.

The employees in my office have not been given any page, stamps, cover sheets, or other tools for discarding documents more quickly. We have to mark every piece of paper that we discard with our initials and the reasons for shredding it.

The shredding problem has also resulted in a large number of unfair terminations and disciplinary actions. I am currently appealing the reprimand of a young lady who was accused of unintentionally shredding a veteran's original document. Even though the evidence was weak, management told us that this is a very high visibility case, so they must go forward with the reprimand.

We are very pleased that Congress has provided VBA with the funds to hire thousands of new veterans to address this backlog. But it is heartbreaking and frustrating to see so many new hires fired during their probationary period.

Finally, much of the problems of lost and tampered files could be solved by VBA going paperless. There are so many Iraqi and Afghanistan veterans who need jobs and would be proud to join the VBA workforce to do the document scanning and other work to help VBA go paperless.

Thank you.

[The prepared statement of Ms. Moore appears on p. 52.]

Mr. HALL. Thank you, Ms. Moore. Thank you for your service as well as your service to our veterans.

Ms. MOORE. Thank you.

Mr. HALL. Thanks to all of our panelists for your service and for your service to our veterans.

Let me just start off. My first question is for Mr. Baker. In general what does a service officer do when he or she cannot locate a claim folder or they suspect a file has been tampered with by the VA?

Mr. BAKER. Well as a national service officer (NSO) in a field office, we have about 250 plus NSOs that man every Regional Office in the country. Our ability is limited. Once we believe something is missing, and we can't confirm, for example, an entire claims folder is missing. We need the VA to help us do that. But if it has been confirmed that a claims folder in its entirety is missing, we have no choice at that point but to rely on VA to start the rebuilding procedure for that folder. Now some of that will come from the service organizations, some of it will come from the claimant. They will go out to various centers, wherever that person sought medical treatment, and try to rebuild as much of that claims folder as possible. It is a difficult process, because some of the records are simply irretrievable, some of them are irreplaceable.

If we feel—now that is a missing claims file. If we feel evidence is missing that maybe we have submitted, we have a tracking system in our case management program that tells us everything we have done for a particular claimant. And we can pull up submittal letters, which are attached to medical evidence that we have copies of. We can take it to VA. And at least if we can get that particular claimant to come back up with the evidence, unfortunately sometimes they have to come back up with it again, we can show by our records that we did submit it to the VA. And, you know, the VA can't then say that they never got the evidence. We can prove that they got the evidence. And as far as effective date purposes or a few other things, you know, that kind of—that kind of partnership can come together for a good outcome.

But if, you know, almost half or maybe more than half of the claimants out there are not represented, you wouldn't get that kind of benefit.

Mr. HALL. Thank you, Mr. Baker. One more question for you. In your testimony you categorized incidents with shredding as "unlawful destruction" and suggested that there be fines or imprisonment for guilty employees.

Are you suggesting that title 38 should be amended? What about managers who do not comport with VA regulations that are complicit in improperly handling documents?

Mr. BAKER. I don't want to—I don't want my recommendation to be taken too much out of context. I mean, if it is found that somebody has illegally destroyed records, I believe that they should be prosecuted under title 18.

Right now there are many provisions in title 38 that require VA to prosecute a veteran, a veterans' representative, a VA employee if they fraudulent—commit fraud against the government to obtain benefits. But there is nothing in title 38 that mandates VA prosecute a VA employee if they commit fraud against a claimant to withhold benefits.

Mr. HALL. Right. So in other words, if there is prosecution or punishment of some kind for overpaying or paying unnecessarily then there also should be balance. And there should be similar—

Mr. BAKER. There should be balance.

Mr. HALL [continuing]. Sanctions for not paying.

Mr. BAKER. And that is not to say VA can't prosecute them under title 18 now.

Mr. HALL. Right.

Mr. BAKER. But various circumstances mandate that they prosecute other instances under title 18.

Mr. HALL. Have you made your recommendation for imaging centers to the VA?

Mr. BAKER. I have now.

Mr. HALL. Okay. I think everybody here sort of echoes that recommendation.

I want to ask Mr. Abrams. It seems that you agreed that the work credit system currently in place incentivizes employees to take short cuts. I love the Lucy and Ethel picture. And I would also agree that measuring for quality and accuracy could improve the system. How would you suggest that that be implemented and what about production?

Mr. ABRAMS. Well, I think we should reward managers who are able to supervise people who do work well and do lots of work. Once we get started on that track, people will be promoted who are good, who do work well, and the VA will have to accept that it will have to report numbers to Congress and to the public that show it takes longer to do a claim in the first instance than what they expect now. It will be shorter over all. The backlog will go down. But it will take longer to do the claim right in the first instance.

And that was why in my formal testimony I said we should give amnesty to the managers now, because the statistics that you are going to get, if they are honest, are going to shock you, just like you were shocked in the OIG report. There are cases that are in drawers now that are going to have to come out. And you are going

to see old, old claims. And that is going to have to get on the table in order to know where we are to get better.

Mr. HALL. Thank you, Mr. Abrams. I am sorry I have—I am running out of time here in this round. But I want to ask Ms. Witt. In your experience with the legislation that we passed last year creating the New Survivor Office at the VA, has Gold Star Wives called—asked the VA to call survivors when needing to retrieve funds, and if so what was the VA's response?

Ms. WITT. We have not asked them to do that. I think it would be an extremely good idea if they did.

Mr. HALL. This is all a work in progress. That legislation is fairly recent. We have a new Secretary, and there will be new direction coming from the top leadership at the VA. So I presume that these things should start to happen and the office is to be fully staffed. And we will see changes. But that would be probably a wise thing to do.

Ms. WITT. We have already seen significant progress from the VA office.

Mr. HALL. Ms. Moore, does the AFGE train employees in how to report unethical or improper document handling if they witness it in the field?

Ms. MOORE. Yes, sir, absolutely. We have a training program in place now that does train the AFGE leadership to report mishandling of documents and shredding, illegal shredding.

Mr. HALL. What process is used to determine if an employee has intentionally engaged in that behavior?

Ms. MOORE. Well, actually what happens is that it is reported to the managers, management, upper-level management when it is brought to AFGE's attention, we have to go through management.

Mr. HALL. Thank you very much. I would like to recognize Mr. Mitchell, the Chairman of the Subcommittee on Oversight and Investigations.

Mr. MITCHELL. Thank you. Mr. Baker, in her testimony the VA's Assistant Inspector General for Audit tells us the so called mail amnesties in Detroit and New York uncovered 16,000 pieces of mail and other documents that had not been processed.

I have a three-part question. Had you ever heard of these mail amnesties for one? And second, how often do veterans tell you that they have submitted paperwork to the VA, and that they had to re-submit the same paperwork? And third, how well does the VA deal with these situations?

Mr. BAKER. I have never heard of the amnesty until now. Hearing it when you mentioned it earlier was the first time. I was shocked to hear that there were that many that turned up in the amnesty. Again, I hadn't heard that. So I will say that that is a first for this type of situation.

Mr. MITCHELL. The second part of that question is how often do veterans tell you that they have to submit—when they submit paperwork, they have to resubmit it for the same thing?

Mr. BAKER. I spent a number of years in the field at various locations throughout the country. And I would probably hear it weekly. That is not to say it was always—a lot of times it was found later. I mean, if you have ever been to, and I am not saying you haven't, some of the Regional Offices out there, you know, the paperwork

piles are tremendous. So in realizing what they have to work with, it—you know, it is very believable that you would lose a few documents a week out of thousands that are handled. But a lot of them eventually turn up.

Mr. MITCHELL. And the third part of that question is how well does the VA deal with those situations?

Mr. BAKER. When the documents are found, I think the VA deals pretty good with them. A lot of times they have already been received by VA, so we can prove when VA—you know, VA dated them.

It is when they are not found. And those records are not replaceable. At those points a lot of problems are created for the claimant. Most of the time when you lose records that are irreplaceable, if it is the one piece of proof that a claimant needed, you see the benefit get denied. But you don't know what that evidence was. You don't know what it said, you know, if you can't come up with it. A lot of times it is just—it is too bad for the claimant. And that is a very unfortunate situation in many of those.

Does that answer your question?

Mr. MITCHELL. Another question is you indicate in your testimony that you are aware of the document handling procedures that are now in place. Do you believe this new procedure is sufficient to protect our veteran's claims until the IT solution is complete, or do you have some concerns about the potential mishandling of records?

Mr. BAKER. I think it is sufficient. I don't want to see it have to go on on a long-term basis, because I think it is a form of micro-management in overdrive. I mean, and I say that only because it is very labor intensive. That work could be used other places to help speed up the claims process.

So I would like to see the IT get in place as fast as possible, so that VA doesn't require to have those—isn't required to have those types of positions to oversee everybody. There are a lot of VA employees that do their job very well that don't shred documents that are now under the gun because of this.

Mr. MITCHELL. Thank you. Ms. Witt, as you know, the IT-focused system takes time to set up. And the VA is working toward this paperless system right now. But in the meantime, do you have any suggestions of how the VA should proceed to ensure that claims and documents are properly handled and processed?

Ms. WITT. My only idea would be that they log each one in and give it a number so that they could track it. But if you are going to go totally manual system, they would have to number them and record them in a PC so that they could track whether they received them or not. Put a rubber band around them. Make sure they stay together.

I am a retired computer programmer. I come up with the ways to do it on the computer, you know, to automate it. I don't really think they have a hope of ever straightening out the backlog unless it is automated.

Mr. MITCHELL. I thank you. And I yield back the balance of my time.

Mr. HALL. Thank you, Mr. Mitchell.  
Ranking Member Roe.

Mr. ROE. Thank you, Mr. Chairman.

Mr. Baker, it is a monumental undertaking to do all this scanning. We just took a 70 doctor practice and 350 employees. And it almost drove us crazy. So this is a huge undertaking. But I totally agree it is absolutely mandatory just from what I have heard here today. There is no way in the world you can keep up with all this paper. It can't be done.

And what—Ms. Witt, what you have said, I have heard over and over again. We have a large VA hospital in my district. And I hear it practically every week, someone is complaining. How many of these scanning centers would you think? Are you a little concerned about—we scanned it in various different sites. And our practice is divided, so we used various sites. That would seem to be a smarter thing to set up across the country instead of going to a central point.

Ms. WITT. I would think that you would need one for each Regional Office where they are processed. And then—

Mr. HALL. Ms. Witt, excuse me, could you speak closer to the microphone? Pull the microphone down there a little bit if you would.

Ms. WITT. I would think that you would need a scanning place in each individual office that processes claims. And I think that is the Regional Offices. Then those could be put into a common database of the whole VA, the records of the scanning, so that they could be retrieved.

Mr. ROE. Mr. Baker, do you approve, agree?

Mr. BAKER. I agree with you, sir. I don't think one is the proper solution. I mean, I could imagine the size of something like that would have to be.

At the same time, I would have to disagree with Ms. Witt. I wouldn't want to see them in every single VA Regional Office, because it is just too hard to manage. I know Lockheed did this for the Social Security Administration. They have a 5-year contract. I am not suggesting VA use a contract. I think it would be better for them to do it with their own people. But if you had centers, regional centers, such as the Social Security Administration currently has, they could be—every piece of mail could be managed centrally. The end user could still look at the evidence once it is electronically recorded into an electronic claims file. It could be sent anywhere.

Now there is probably a lot of ways to do this. I am not an IT specialist. But I don't think it should be one. I think it should be regional. And there may be much better ideas out there than mine.

Mr. ROE. One of the things that, Mr. Abrams, you mentioned, and I did see that Lucy show, that was good, but that was a comedy show. And the care of our veterans is not. And so we can do better. And I want to brag on our VA. We are so blessed to have the VA system. I, as a veteran, appreciate the quality care that we get at the VA. And we certainly forget, Ms. Moore, sometimes all the literally millions of claims you do right. But we need to strive to do better. And I would argue, Mr. Abrams, just your comment briefly, I certainly found this out. It is a lot better and quicker to do it right the first time than to redo it 15 times. I mean, first of all, what you are doing is incredibly labor intensive. It is a one-on-one.

When somebody in my district office calls the VA system, it is one person working with another person. And if there is a mistake made, you have just compounded that. And another mistake and it takes—I think that is what adds a lot of the time. I think you are absolutely dead on right is to do it right the first time. Comment?

Mr. ABRAMS. Yes. And we have been saying that—I have been saying that since 1985 when I was working for the VA. And I think that got me out. But if we do it right, the managers and the workers have to be encouraged with a system that rewards them for doing it right. Right now they are rewarded, in our opinion, for doing it fast.

So if you hold back the work credit until the appeal period is over, then people are going to say if we do it right, then we don't have to worry about that. If they appeal, we don't have any more to do. We can move this case on. How many times does a case go to the board where the board sends it back for extra evidence? Where a Decision Review Officer says they didn't develop the claim in the right way. These things can be stopped if people are incentivized to go do it right.

Mr. ROE. And I think just one last time. This is a massive undertaking. I can tell you just from what we did in our medical practice, it was a huge undertaking. This is going to have to—there is going to be a learning curve. And there is going to be a time where it will probably actually slow things down as you scan all this data in. But, it is going to require some patience. But in having said that, it has to be done.

Thank you.

Mr. HALL. Thank you, Mr. Roe.

And I would just comment that we did pass a bill last year. It was signed into law by President Bush, P.L. 110-389. It was unanimously supported in both the House and Senate, which among other things requires review of the work credit system. It, unfortunately, doesn't happen just because we passed the bill. It has to be implemented and planned. And with the new Administration getting up to speed, I hope we will see some progress, and all of these ideas that we are talking about will be looked at.

Mrs. Halvorson, you are now recognized for 5 minutes.

Mrs. HALVORSON. Thank you, Mr. Chairman. You know, it is a shame one of the biggest casualties here is trust and faith in our VA. And I know we work every single day to reinstate that trust and faith.

And Mrs. Moore, I just want to commend you, because it is true, we focus on some—the few things that go wrong. Just as what we go through, people want to point out the bad instead of talking about the good. I want to commend you on what you do and all the good things.

The question I have though is I know from hearing from my constituents, and even when I served in the State Legislature, people still came to me with VA issues. But is it—I know that it is a lack of maybe enough working people. I mean, do you have—you are understaffed in many cases. Is that true?

Ms. MOORE. Yes, we are currently understaffed. But I think that if we had proper training, if the focus was on training, the employ-

ees that we have in place and getting them the information that is needed, we would overall be better.

Mrs. HALVORSON. And why are you lacking the training?

Ms. MOORE. Well, I mean, the training is there. It is just that the trainers are inexperienced. They are just entering the VA system. They are not, in my opinion, subject matter experts.

Just like was mentioned on this Committee that if you produce cases quickly, you are promoted. It is production. It is the production line. So—

Mrs. HALVORSON. So then we are taking people's lives and trying to skip through them quickly so that people are promoted within their jobs instead of taking care of our veterans.

Ms. MOORE [continuing]. That is what I am seeing at the Regional Office at—

Mrs. HALVORSON. And who makes those decisions?

Ms. MOORE [continuing]. Top management.

Mrs. HALVORSON. Okay. Then we also hear from—I hear from constituents also that their cases are denied, because it is easier to deny a case than to deal with it. Is that going on?

Ms. MOORE. I see some of that going on, yes.

Mrs. HALVORSON. Does anybody else care to talk about that issue?

Mr. ABRAMS. Yes.

Mrs. HALVORSON. Mr. Abrams?

Mr. ABRAMS. Yes. It is much easier to get work credit when a claim comes in, and you need to get a couple medical opinions, and you need to go out for lay evidence, and you need to give the veteran time to get things to prove certain things than it is to skip that, deny the claim, and say, as we have heard all over—we have been to over 40 ROs. I worked in the VA for almost 20 years. Let the Board of Veterans' Appeals decide. And so people appeal.

If the ROs were told you have to develop this, because we get burned if the claim goes on and on and on, they wouldn't do that. They would go get that crucial evidence.

Mrs. HALVORSON. So instead—

Mr. ABRAMS. They would—

Mrs. HALVORSON [continuing]. We now have to help our constituents who are constantly having to appeal. So these are people that have served our country. They have done everything right. And now we expect them to constantly appeal so they get taken care of, because people who are working in the offices find it is easier to get themselves promoted if they deny our people who have served their country benefits.

Mr. ABRAMS. You can look at the remand and reversal rates at the Board of Veterans' Appeals and see they are much too high. And then you can look at what happens at the Court of Appeals for Veterans Claims where they have over a 50-percent remand reversal rate. It is the highest rate of any appellate court. And this is—this is to be a non-adversarial system where the VA is obligated to help people get evidence to win their claims.

Mrs. HALVORSON. Well, to me this is very adversarial. And I think we need to do a better job taking care of our veterans. And I am hoping that I can be of assistance in any way to make sure that we can do something to not only train the people who are



dealing with these claims, but to do something about taking care of the people, because now it has almost become automatic that people are appealing their cases, which now makes you have to deal with the person at least twice instead of once when you could have just taken care of it right away. So I am hoping that I can be a big part of maybe helping somehow deal with fixing something that to me just doesn't make sense.

Thank you, Mr. Chairman.

Mr. HALL. Thank you, Mrs. Halvorson.

Mrs. Kirkpatrick, you are recognized for 5 minutes.

Mrs. KIRKPATRICK. Thank you, Mr. Chairman.

My question is for Ms. Moore. Regarding shredding, I am glad to hear that AFGCE feels so strongly that improper shredding is totally unacceptable. And that you feel that making veterans wait over a 6-month period for their claims to be processed is also unacceptable.

You state that the VBA could have struck a better balance if VBA had consulted with their front-line employees prior to implementing its shredding policy. What advice would you give VBA to strike a better balance in its shredding policy?

Ms. MOORE. The consultation and the advice from the employees that actually do the work. We are the front-line employees. We do the work. We are on the floor. We see the claims that are processed. We see the evidence that comes through the mail room.

I think that if VBA top management would just sit down at the table and communicate with the employees and solicit our input, we could be a resounding resource. But that is not happening. We want to help. We want to be there, because we are veterans serving other veterans. So we feel left out.

But I think that if they solicit—I am urging the Committee to have top VBA to solicit the input from the employees, the front-line employees, that actually do the work.

Mrs. KIRKPATRICK. And just to follow up on that, do you think there have to be safeguards put in place so that those employees don't feel inhibited during that process, because they are going to be talking to their supervisors, their managers?

Ms. MOORE. Well, you know, I think that if VBA would have a partnership with the employees and their representatives, that would make it so much better. But VBA does not want to have the partnership with AFGCE. AFGCE represents the employees. We are there for the interests of the employees as well as the veterans. So we have a twofold job here.

And my job is extremely difficult, because I am the Vice President of the American Federation of Government Employees at Winston-Salem. So not only do I process claims, but I also represent employees. So I think we can—we can strike an equal balance here if we work together. We need to work together.

Mrs. KIRKPATRICK. So there is a way to strike sort of a win-win between—

Ms. MOORE. I think so.

Mrs. KIRKPATRICK [continuing]. Employees and management?

Ms. MOORE. I really do. I really do believe that from the bottom of my heart.

Mrs. KIRKPATRICK. Thank you. I yield back my time.

Mr. HALL. Thank you, Mrs. Kirkpatrick.

Mr. Walz, you are now recognized.

Mr. WALZ. Thank you, Mr. Chairman, and thank you to each of our witnesses. One thing I really appreciate is your desire and your hard work to truly solve this. Some of you have been fighting this for decades. And you haven't lost the desire to get it right. You are still continuing to be there.

But I have to tell you it gets hard to hear these. All of us have been there. And we continue to hear this. We continue to hear the problems. We have got to get it right. The momentum is there to do that. But we have to be smart about this.

So there are a couple of things I want to address. I think Dr. Roe is bringing up a really important point. This is going to be monumental in what it is going to take to do it.

And it is something that I—spending 24 years in uniform in watching these things happen. And I have been there when the DoD has lost stuff. I don't know how many of us here receive nine extra shots that you knew you had. But there was no record of it. And every time I am telling them, "Well, I am the guy who was there signing off," that didn't matter.

We have got tools now to be able to get there. We have got computers, and we have got electronic records. And I am convinced that, yes, we have got to get this claim that is there. We have got to take away exactly the things you are focusing on.

But I think we have to back up a step further and get to the systemic problem here, which is that seamless transition issue. That record should be in far better shape when that individual, that warrior, leaves the DoD and gets into the VA system. We end up trying to track back records into the other side of the house on DoD. And it becomes a dang nightmare.

And that I think is the first step. I think it sets the tone for streamlining this process. It puts things in. It gets us electronic—from the electronic medical record (EMR) to the electronic enlistment record and everything else that moves with this person. DoD has got to start seeing themselves as not just the war fighters. They can't just sign off on this piece of equipment that was a warrior. And they go into the VA. That is where a lot of our problems are starting.

So I am going to ask you, Mr. Baker. And it got touched upon. How do we do this? How do we front load this thing? And maybe, you know, we have got to get to the computer experts. And we will ask the VA in all of that. But do you agree this is part of the issue that if we can front load this, getting the records compiled in the right place, having that documentation there, that that should start to clear the backlog?

Mr. BAKER. It absolutely would front load it in a lot of good ways. And we have had a lot of different hearings in both the House and the Senate on the claims process and the appeals process.

And personally I look at the whole picture from start to finish in various sections. You can't look at it in one. Everybody is different, whether you are a Vietnam vet or a vet just getting out of service.

And how you—how do you process that claim when evidence is all over the country—

Mr. WALZ. That is right.

Mr. BAKER [continuing]. Is different in every situation. So I think what you are talking about is one segment from military to veteran status. If that were seamless, than that segment is then almost taken care of. You don't have to go back and trace records down somewhere down the road. So you are right. If you could do that, you have just made a monumental step forward.

At the same time, now I know the BDD system, the Benefits Delivery at Discharge, has recently gone paperless. Now I don't know to the extent that that is up and running. That for some of those veterans is an answer if they go through the BDD process. But a lot of them don't.

Mr. WALZ. Yeah.

Mr. BAKER. So that kind of takes up for a difference in the DoD system versus VA system. But it doesn't solve the problem that is between those two systems. So absolutely—

Mr. WALZ. Okay.

Mr. BAKER [continuing]. It worked out 100 percent.

Mr. WALZ. Okay. And I would—Ms. Witt, this issue on survivor's benefits, the Ranking Member Buyer has got a piece of legislation I think he is going to roll out pretty soon to start addressing some of these issues. We know there are problems in that DIC. We know that there are things that need to be addressed. And we will start to get there.

My last question, Master Sergeant Moore, again, thank you for your service. And, again—and Mr. Lamborn mentioned it and other Members here is that we are absolutely committed to the men and women in the VA. They are veterans for the most part, a large number of them.

But we do have problems. We have got some cultural issues there. And I know this is somewhat subjective. But after this story came out about the shredding, it seemed to me you might be kind of intimating a little bit. Has the pressure fallen heavily on the processors, and to find scapegoats, and releasing people? Do you kind of feel that is happening? It is falling heavily on you and—

Ms. MOORE. I know that to be happening. VBA was more or less caught with this problem. And in order to rectify it or to provide answers to this Committee or whatever Committee, they had to find evidence of whomever was committing these acts. And there were I am sure at some ROs people doing this. But at other ROs, the instance that—I don't think—I think we—Winston-Salem we didn't have a lot of incidents. But the pressure is there.

And you have to now—you have to initial every piece of paper that you get in a veteran's file, put it in a red folder, give it to your supervisor. Then your supervisor has to review it and determine if it is shreddable. I am paid \$75,000 a year. And I think I can make that decision.

Mr. WALZ. Do you think that those procedures have done anything to stop the person who was going to destroy one for a work product issue?

Ms. MOORE. I don't see where it is really helping. I really don't.

Mr. WALZ. Okay. Well, I appreciate your candor. Thank you. I yield back, Mr. Chairman.

Mr. HALL. Thank you, Mr. Walz. You just asked my last question. And you just answered it, Ms. Moore.

So I want to thank you. I want to note that both Mr. Baker and Mr. Walz talked about the two tracks, the new veterans who are separating now from service and have a DoD electronic health record that can be handed off. That, obviously, is the best world. Records are going to be much easier to deal with if you are starting out with an electronic record.

Then there are the older veterans who have operated under a system in which the health records are printed out, and have rubber bands around them, and sticky Post-it notes put on them, and get passed from one desk to another. Those will need to be scanned or date entered and in certain instances character recognition software run.

In the cases where a doctor has scribbled in the margin, if it is like my doctor, I don't know that the character recognition software would work. But nonetheless, we are trying, as you know, to make this happen.

We appreciate your testimony and your input. Thank you for your testimony and, again, for your service. The first panel is now excused.

Now we would ask our second panel to join us. Ms. Belinda Finn, Assistant Inspector General for Auditing at the Office of the Inspector General for the U.S. Department of Veterans Affairs; accompanied by Mr. James O'Neill, Assistant Inspector General for Investigations at the Office of Inspector General for the U.S. Department of Veterans Affairs.

Welcome to both of you. Make yourselves comfortable. Your full statement is entered in the record, so feel free to deviate from it, or shorten it, or whatever you choose to do.

Ms. Finn, you are recognized for 5 minutes.

**STATEMENT OF BELINDA J. FINN, ASSISTANT INSPECTOR GENERAL FOR AUDITING, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY JAMES J. O'NEILL, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS**

Ms. FINN. Thank you very much. Chairman Hall, Chairman Mitchell, Members of the Subcommittees, thank you very much for having us here today.

We are going to discuss issues affecting the handling and processing of veterans' compensation claims. My colleague from the OIG is with me today, Mr. James J. O'Neill. He is the Assistant Inspector General for Investigations.

In September of 2008, we were conducting an audit of claim-related mail processing, in the Detroit Regional Office. At the suggestion of a VBA employee, we looked in the shred bins and found claim-related documents. We continued our work in the Waco, St. Louis, and St. Petersburg Regional Offices, finding a total of 132 documents, about 45 of which could have affected benefits.

On learning about this issue, the Under Secretary for Benefits immediately directed every Regional Office to suspend document

shredding and inventory the contents of the shred bins. That search found 474 claim-related documents at 41 Regional Offices.

During this time, the Office of Investigations investigated the circumstances surrounding every instance where a document could be traced back to an individual. The results of our investigative efforts are outlined in our written statement for the record.

Neither we, nor VBA, can determine with any accuracy how long documents may have been discarded or how many documents were lost. In fact, I note that the shred bins we looked in had been emptied fairly recently and contained only about 14 days worth of documents.

At the time of our audit, VBA did not have a policy governing what documents could be placed in shred bins and no review checks to determine if documents were appropriate for shredding. Following this disclosure, in November, VBA issued sweeping new procedures for the maintenance, review, and appropriate destruction of hard copy documents. We will be reviewing the effectiveness of those controls during our future visits to VBA offices.

In October 2008, we began another review at the request of Congressman Steve Buyer to evaluate the accuracy of compensation and pension claim receipt dates. The impetus for this work was a VBA report that management at New York had directed staff to intentionally record false claim receipt dates. This was done to improve their reported claim processing time.

In reporting this, VBA assured everyone that the errors did not affect payments to veterans or beneficiaries. To determine if this issue was a problem elsewhere, we evaluated over 1,500 claims from the Albuquerque, Boston, San Diego, and Winston-Salem Regional Offices.

We found the majority of the claim receipt dates were accurate. A small percentage of claims, however, had no documentation in the claim file to support the date that had been recorded. Most importantly, we were able to confirm that these incorrect claim receipt dates did not cause any harm to veterans or beneficiaries, because VBA personnel verified the amount and date of each payment before authorizing payments. Further, we found in only one instance that any evidence existed that this was an intentional act.

We recommended that VBA take actions. And they have accepted our recommendations.

During 2008, my office has visited about 16 regional VBA offices. In addition to the two reviews discussed here, we are conducting audits or reviews on VBAs quality assurance programs, its management controls over large retroactive payments, and VBA systems to track and control records.

We will be glad to provide our reports on each of these reviews after we complete our work.

In addition to our National reviews, we are beginning an inspection program to evaluate operational issues at specific Regional Offices. We will start our work this month and plan to cover all 57 offices within 5 years.

Mr. Chairmen, thank you, again, for the opportunity to testify and for your continued support of the Office of Inspector General. Mr. O'Neill and I would be pleased to answer any questions at this time.

[The prepared statement of Ms. Finn appears on p. 55.]

Mr. HALL. Thank you, Ms. Finn. I would start by asking is there a systemic document handling problem within the VA—VBA, or is this—would you say New York was systemic to management there, and that the rest of it is within the level of tolerance that one would attribute to mistakes, or accidental mishandling?

Ms. FINN. That was our conclusion for the four offices that we visited and reviewed. New York was unique in that management had directed the incorrect dates. And there was a systemic pattern of it. We did not find, obviously, any evidence of that in other offices.

Further, the pattern of the claim dates was different in New York. Over 50 percent of the dates were inaccurate. And, most of the inaccurate dates after the claim was actually established to make the processing time look better.

In the other offices we saw inaccurate dates on both sides, either before or after the date. And we felt this was much more indicative of unintentional error.

Mr. HALL. Thank you. What do you think of the VA's response to the problems with shredding and its new policies? Had the OIG ever audited mail rooms or shredder bins before to your knowledge, and what were those results?

Ms. FINN. To my knowledge, we had not conducted any audits or reviews of mail rooms or shred bins before. I will caveat that by saying I have only been with the VA OIG for about 2 years. But I think I would have heard if we had done earlier reviews.

VBA took very swift action. And they established sweeping policies. I think these policies are a big step in the right direction to have a policy and a procedure where none existed before.

Mr. HALL. I am glad to hear that the Office of Inspector General is creating a Benefits Inspection Division and will be doing evaluations at the 57 Regional Offices. What will be the primary focus of these inspections, and will there be a standardized protocol?

Ms. FINN. Yes. We will be using a standardized protocol. The focus will be to evaluate the accuracy of claims processing and action affecting claims processing. We will be evaluating a wide range of issues.

We are still developing all of those protocols to make sure we have the most effective use of our time. But we will be issuing standard reports on each visit. And we plan to issue them about 60 days from the start of our work, so it will be a fairly quick review.

Mr. HALL. And is a 4-year cycle for inspections going to be efficient enough to catch systemic problems?

Ms. FINN. It is the schedule we can currently handle with our resources. As to whether or not it will get around to every office quick enough is—I think remains to be seen.

Mr. HALL. Do you need more resources to do this in a timely fashion?

Ms. FINN. We would need to dedicate more resources, yes, in order to visit the offices and complete the cycle quicker.

Mr. HALL. So I guess we talk to Secretary Shinseki and ask him if he can move them from somewhere else or whether we in Congress need to allocate more funds. Do you know about how much

more funding would be necessary for you to have sufficient staff to do these inspections?

Ms. FINN. Our current resource limit and level for this effort will be ten professional staff. And that will allow us to complete all 57 offices within about 5 years.

If we wanted to complete all offices within a 3-year cycle, then we would probably need to double the resources.

Mr. HALL. Okay. If you would submit to us at your earliest convenience a written summary of what you think you would need to be able to do that, I would appreciate it.

Ms. FINN. Yes, sir.

[The information was provided in a follow-up letter from Hon. George Opfer, Inspector General, U.S Department of Veterans Affairs, dated March 26, 2009, which appears on p. 98.]

Mr. HALL. I will now recognize Mr. Mitchell.

Mr. MITCHELL. Thank you, Mr. Chairman.

Ms. Finn, you talked about, at least in your written testimony, about the amnesties that occurred in Detroit. And you uncovered 16,000 pieces of mail and other documents that had been processed. Did you come across amnesties in any other offices, or is this just in one particular place? And what do these amnesties tell you or indicate to you?

Ms. FINN. At the risk of sounding like a popular book, I will say that everything we know about amnesty we learned from VBA. We did not actually witness or observe any of the amnesties. So we have information from VBA about the 16,000 documents and how effective the amnesty was. But I really don't have any firsthand information.

[The information from the VA OIG is included in the response to Question #5 in the Post-Hearing Questions and Responses for the Record, which appears on p. 89.]

Mr. MITCHELL. Do you think that as a result of there being an amnesty, that, obviously, management knew that something was wrong. That not all these claims were being processed. That is the reason they had an amnesty. Otherwise they wouldn't need one.

Ms. FINN. Yes, I think definitely management realized that there was a need for an amnesty and that documents or mail that was not being processed that could be hidden or lost somewhere in the RO. And that is why they went with the amnesty. I think it is similar to the library that has an amnesty program for your overdue books.

Mr. MITCHELL. Do you have any indication of how many amnesties they have? Is it one every so many months, years, or anybody else have them?

Ms. FINN. I believe we heard that two out of four of the area offices that we visited knew of amnesties or had had amnesties. But I really don't have any detailed information.

Mr. MITCHELL. Do you believe that the misdating and the shredding that was discussed was the result of improper training or supervision or the result of widespread culture in the VA that tolerated or maybe even encouraged employees to behave in this way?

Ms. FINN. We have not done any specific audits or reviews to evaluate the training on this issue. And we have noted that the policies and procedures before October were geared mainly toward

ensuring the privacy of veteran's information and really did not cover shredding or placing documents in a drawer or anything like that.

In my experience, I have often seen that measurement systems or work measurement systems have unintended consequences. And that people could take an unaccepted shortcut to achieve a metric.

Mr. MITCHELL. Thank you. And I yield back the balance of my time.

Mr. HALL. Thank you, Mr. Mitchell.

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

Mr. ROE. Thank you, Mr. Chairman. Just a comment or two and then a question. If one veteran falls through the crack it is one too many, because that veteran is only interested in what is going to happen to me, not the other thousands we have got right. So that is why we have got to get them as close to 100 percent as we can.

And if we don't—I guess maybe I always understood who I worked for as a doctor. I always worked for my patient. There would be no need to have a VA if we didn't have veterans, so they are who we work for. And so we should—it is not the other way around.

Sometimes I think institutions get confused, hospitals do. And I think we need to think about that from the top down is that our idea is we serve these veterans. They served us. And now we serve them.

Just out of curiosity, I know, Ms. Finn, and you all probably have done this, but you have only been there 2 years, maybe Mr. O'Neill should answer it, but why hasn't the OIG done regular RO inspections before now or have you done them before now?

Ms. FINN. Actually I can answer that. We were doing combined assessment reviews of the Regional Offices for a number of years. We stopped them in 2006 in the Office of Audit so that we could focus our attention on national issues affecting VBA operations. And we believe those reviews have been very effective at identifying issues and the need for change.

The impetus for the inspection program is coming actually from the Senate Veterans' Affairs Committee. And it was part of our appropriation and our marching orders for next year.

Mr. ROE. I think you speak again why we need to get to a paperless system to be able to manage this information. It would make your job much easier if you had a computerized system where you could do your work much easier and probably more efficient with fewer people.

Just a question, and you may or may not have this answer here. But I would like to know how many people were terminated, or moved, or were they actually terminated that deliberately shredded these documents? I find that just incomprehensible that you would just shred documents so you didn't have to do something.

Ms. FINN. I do know that VBA terminated or took administrative action against a number of people. I don't have the exact number. And I am sure they will be able to address that.

Mr. ROE. Terminated means gone though, right?

Ms. FINN. Yes, it does.

Mr. ROE. Not moved somewhere else.



Ms. FINN. Generally terminated means having left Federal service.

Mr. ROE. Okay. Well that is—because sometimes it can mean being moved somewhere else and continuing your poor work.

I do appreciate what you do, because anything that I did as a physician, you may be thinking you are doing things real well until you have someone independently come in, audit that situation, and find out, hey, we are not doing nearly as good a job as I thought I was.

So thank you for what you are doing to keep this information flowing our way. And I yield back my time.

Mr. HALL. Thank you, Mr. Roe. Mrs. Halvorson?

Mrs. HALVORSON. Thank you, Mr. Chairman. I have just a real short one. In the panel before you, we were talking about the fact that there was not enough training. And that the trainers weren't trained well enough to do the training. Is this a problem and is this widespread? Could you maybe give us a little insight, or is it like not under your purview?

Ms. FINN. I wish I could. It would be under our purview. We just have not done any recent work in that area to evaluate the training program.

Mrs. HALVORSON. Mr. O'Neill, maybe?

Mr. O'NEILL. No, I wouldn't be able to comment on it.

Mrs. HALVORSON. Okay.

Mr. O'NEILL. I am responsible for the oversight of—

Mrs. HALVORSON. Sure.

Mr. O'NEILL [continuing]. Criminal investigations.

Mrs. HALVORSON. Great, okay. I completely understand. Thank you. Thank you, Mr. Chairman. I yield back.

Mr. HALL. Mrs. Kirkpatrick?

Mrs. KIRKPATRICK. Thank you, Mr. Chairman. My question is for Ms. Finn. In my law practice I helped veterans put together claims and also widows submit their claims. And, you know, I am just wondering if we need to look at the type of documentation we are asking them to submit for redundancy and for things that may not make sense. And I am just wondering in your review if you developed an opinion about that?

For instance, certified copies of documents are very difficult to obtain. Some places don't even certify documents. And yet there is a requirement that you have to submit a certified document. I mean, I just wonder if we really need to look at, you know, the type of documents, whether we need to have originals, whether copies would suffice, and what your opinion is of that?

Ms. FINN. I have not looked at that. I don't know that my office has. I think you raise some interesting points. And I would like to keep that in mind for some future reviews if you don't mind.

Mrs. KIRKPATRICK. Thank you. I yield back my time, Mr. Chairman.

Mr. HALL. Thank you, Mrs. Kirkpatrick.

We would appreciate that at some future time if you respond to us for that question. I want to thank you for your testimony, and for being here today, and the work you do on behalf of our veterans, and especially sorting through this particular problem.

We have votes coming up at 3:00, around 3:30. So we will excuse our second panel and move right along to our third panel, which consists of Michael Walcoff, Deputy Under Secretary for Benefits at the Veterans Benefits Administration at the Department of Veterans Affairs. Mr. Walcoff is accompanied by Mr. Bradley Mayes, Director of Compensation and Pension Service of the VBA at the U.S. Department of Veterans Affairs, and Ms. Diana M. Rubens, Associate Deputy Under Secretary for Field Operations of the Benefits Administration at the U.S. Department of Veterans Affairs.

Mr. Walcoff, your full statement is entered for the record. So you know how this goes. You are now recognized for 5 minutes.

**STATEMENT OF MICHAEL WALCOFF, DEPUTY UNDER SECRETARY FOR BENEFITS, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY BRADLEY MAYES, DIRECTOR, COMPENSATION AND PENSION SERVICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS; AND DIANA M. RUBENS, ASSOCIATE DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS**

Mr. WALCOFF. Nice to see you again.

Mr. HALL. Good to see you, sir.

Mr. WALCOFF. Mr. Chairmen, Members of the Committee, I appreciate the opportunity to appear before you today to discuss the critical issue of proper handling of veterans' claims documents at VA Regional Offices, as well as issues involving proper date of claim for workload and performance tracking.

I am accompanied by Ms. Diana Rubens, Associate Deputy Under Secretary for Field Operations, and Mr. Bradley Mayes, Director of the Compensation and Pension (C&P) Service.

As described in my written testimony in response to an OIG audit of mail handling procedures, VBA implemented a comprehensive plan of action to strengthen our policies and procedures to safeguard veterans' paper records. This action plan implements tighter controls to protect veterans' applications and claims-related documents and ensures measures are in place to prevent future incidents of employees inappropriately discarding veterans' paperwork.

Working with veterans service organizations and Congressional staffs, we also developed special temporary claims handling procedures for veterans and claimants who assert VA did not process their claims because documents they previously submitted to VA to support their claim were shredded or otherwise improperly disposed.

These special procedures for missing documents were officially released on November 14, 2008. Since that date, we have received 335 requests from veterans or beneficiaries for review of their claims under the temporary procedures.

I extend my sincere appreciation to the Senate and House Committee staffs and to the veteran service organizations for their input as we developed our action plan. We will need your continued support as we work to ensure anyone potentially affected by this

situation is assisted in filing a claim under these special procedures.

As long as VBA continues to establish and store paper claims folders, we will be vulnerable to misplacement or misfiling of records, damaged records, and occasionally losing files. VA has very clear and specific guidelines covering lost folders and rebuilding folders.

ROs are obligated to conduct an exhaustive search within their facilities before declaring a folder lost. When these searches are completed and responses properly documented, the RO is responsible for rebuilding the folder.

The process of rebuilding folders includes replicating all evidence available to the VA. If there is evidence pertinent to a pending claim that VA does not have, all development is redone to obtain that evidence.

In addition, VA is required to notify the veteran and his or her representative of the lost folder and request any documents pertinent to the successful rebuilding of the folder.

If the original claims folder is subsequently located, the RO is obligated to combine the contents of both the claims folder and the rebuilt folder.

Control over all documentation is imperative. And while we recognize that paperless is not a cure all, the use of technology will allow VA to maintain electronic documents, copies of documents, which cannot be shredded or lost.

Mr. Chairman, you also requested a status on the proper date stamping of documents at ROs. During a routine site visit to the New York Regional Office, the C&P Service discovered 16 of 20 claims reviewed and an incorrect date of claim established in the electronic claims tracking program. The New York RO was establishing claims using an unsupported date of claim, which resulted in erroneous timeliness on this data.

It is important to note that no veterans were impacted by these actions. Subsequently, C&P staff members conducted an on-site review of a statistically valid sample of pending claims to assess data integrity at the New York Regional Office. In addition, the Eastern Area Director convened an administrative investigative board to conduct a thorough and comprehensive investigation on site in New York.

Of the 335 additional claims reviewed, 56 percent had inaccurate dates of claim. As a result of the findings of the New York Office, the Office of Field Operations and C&P Service conducted a full-scale claim—full date of claim review.

The purpose of the review was to determine if ROs are using the proper date of claim. And if not the reasons for using an incorrect date. The review also required each RO to determine whether any use of an improper date of claim was to the advantage of the RO.

Findings showed an average of 6.7 percent of cases nationwide were established with improper dates of claim. However, the errors were unintentional and payment dates to veterans were not affected.

The OIG also reviewed four Regional Offices to evaluate accuracy of benefit claim receipt dates. The findings issued on February 27, 2009, showed a range of inaccuracy between 3 and 10 percent

among the four offices. The OIG concluded that inaccurate dates were unintentional and did not cause any veteran to receive inaccurate or delayed benefit payments.

VBA implemented several measures in response to the findings of these reviews. Each area office began conducting additional unannounced site visits at ROs under their jurisdiction. Beginning in November 2008, the C&P Quality Assurance staff added date of claim accuracy reviews to all-STAR quality reviews. The C&P site visit staff will continue to conduct date of claim reviews during routine site visits. The information documented from both C&P and area office site visits is provided to leadership at the RO level as well as senior leadership in VBA.

Based on the findings from ongoing date of claim reviews, VBA will continue to provide training, guidance, and reminders to the field of the importance of proper date of claim.

Finally, I would like to mention changes to month-of-death payment processing. Due to problems implementing a change of law, some surviving spouses did not receive the veterans' compensation or pension benefit for the month of death. And I have heard this referred to as a computer glitch. And I want to make it clear that it was not a computer glitch. This was an improper interpretation of the law by us.

Over 10,000 surviving spouses have been identified so far. And payments to those spouses have been made. Procedures are being revised to automatically issue the month-of-death benefit immediately on processing the notice of death where VA knows of a surviving spouse. No application is required to make payment. We expect to issue new procedures later this month.

Mr. Chairmen, I have worked for the VA for 35 years. During that time, I worked with many dedicated employees who devoted their careers to serving veterans. The events I discussed in this testimony, particularly the shredding of documents, go totally against the responsibilities we have as public servants.

The veterans have lost trust in VA. That loss of trust is understandable. And winning back that trust will not be easy. We are committed to doing whatever we can to accomplish this.

Mr. Chairmen, this concludes my statement. I would be happy to answer any questions you or the Members of the Committee might have.

[The prepared statement of Mr. Walcoff appears on p. 61.]

Mr. HALL. Thank you, Mr. Walcoff. I appreciate you and your colleagues and all of those who work for the VA and your sincere wish and motivation to help our Nation's veterans.

How well would you say the new shredding policy is working? And have you conducted follow-up reviews?

Mr. WALCOFF. The new policy was put in effect after every Regional Office certified that the training had been done. That certification took place on December 31st of 2008. We are planning after 90 days to review what has been found during all of these various reviews at Regional Offices. And at that point, we will make a determination as to whether and how long the additional scrutiny that is being placed on all documents to be shredded needs to continue.

We feel that while these measures are very burdensome, as was testified to by earlier panels, it is necessary for us to do this, because we need to show veterans that we are able to—we are willing to do whatever it takes to make sure that their paperwork is not being mishandled.

And, you know, when we are confident that these procedures are working and that our employees are doing what they need to do and doing it correctly, then we will talk about whether it is time to ease back a little bit. We are not going to go totally back. We are going to feel it necessary that there has to be some extra look at documents before they are shredded. But, you know, we would have to make a determination as to whether we want to continue what we are doing now.

Mr. HALL. Would you care to comment on Ms. Moore's statement in our first panel that those who are doing the training aren't knowledgeable enough about the policy themselves? If I understood her correctly, that is what I thought she said.

Mr. WALCOFF. Yeah. And I wasn't sure whether she was talking about the training specifically for the shredding or generally our training and claims adjudication. And with all due respect to her, I would disagree with her statement.

I believe that we do put, you know, our people that have a combination of technical knowledge, which is important. But also they have to have the ability to teach. And we look for that combination in the people that we use as instructors. We do send them specifically to an instructor development class that takes place at our training academy in Baltimore with the idea of trying to come up with that combination of expertise plus skills in platform areas.

Mr. HALL. In preparing for this hearing, staff was told that the primary way files are missing, that they go missing and disappear, is that they are lost in transit. Have you reviewed how many files are lost in transit between offices and Medical Centers? How is a file tracked? What is the chain of responsibility? And what about the custody of brokered claims?

Mr. WALCOFF. I can tell you that in terms of lost files through sending them through the mail, it has—it has certainly happened. I wouldn't say that that is the primary way that files are lost. But I can tell you that it is something that we certainly have some concern about.

We require that any files that are sent through the mail are sent through a system that has a tracking device. In other words, you can't just take a C-file and drop it off in the mail and just send it regular mail. It has to be using whatever form of delivery would allow us to be able to track the document if it comes up missing.

Now that is not the cheapest way to send a file, frankly. As a matter of fact it is a lot more expensive. But we felt that that was needed in order to be able to locate missing files if they do not show up where they are supposed to show up. So that is a precaution that we do take with the brokering.

And I will tell you that, you know, we keep hearing about paperless and electronic and how that is the answer to a lot of the problems. And frankly, it is the answer to a lot of our problems, not all them, but a lot of them. And certainly I can't wait until we get to the point where we can move files around without ever hav-

ing to actually physically move anything. That when we are in a paperless system, that if I want a file that starts in Des Moines to be done in Los Angeles, I can have people at both stations go into the electronic site and have access to that file rather than us having to physically mail a file.

Mr. HALL. Yes. I remember you testifying about that last year when we were passing legislation to start the process, which we hope to see adopted soon.

What are the consequences to employees when a file is lost while under their control, or for that matter, what are the consequences to managers? How is their performance measured when folders or documents go missing from their control? And does it affect their bonuses?

Mr. WALCOFF. I am going to let Diana, you may want to take that. I will tell you that often when a document or a file disappears, it is not easy to figure out who had last custody of it. And I think the OIG could probably testify to that. When they went in and investigated, the documents that wound up where they shouldn't have been, they were only able to track back to a specific individual, a very, very small number of those pieces of paper.

So because of the process and the way we—the way things move around in our operation, it is often very difficult to be able to say exactly when and where and who was involved when the folder disappeared. Certainly if we ever have any indication that an individual intentionally either lost, or shredded, or in any way mishandled a piece of paper or a file, serious action is taken.

And I can tell you that the individuals who we were able to trace the shredding incident back to, have been terminated as was said. And I do mean in this case that they were removed from their position in the government.

Mr. HALL. According to Mr. Abrams on our first panel, the VA does not have the authority to establish dates for which to allow claimants a window to file claims without proper documentation. Did you explore this with General Counsel prior to sending instructions to the field?

Mr. WALCOFF. Do you want to take that?

Mr. MAYES. Yes, we did, Mr. Chairman. We consulted with General Counsel. And we came up with the procedures that would allow us to accept an asserted claim. And we felt that the Secretary did have authority to take those claims. I know that was an unprecedented procedure that we put out there. But I think we needed to do that, as Mr. Walcoff said, to begin to restore the faith and the confidence in VA.

Mr. HALL. Thank you, Mr. Mayes. Before I turn it over to Dr. Roe, I will ask you, Mr. Walcoff, if you would respond to a number of questions we didn't get to and rather than ask you to wait while we are over there for voting for however long that is, we would like to follow up with you on the question of mail amnesty, in particular the comment today. I would like your commitment to us that you will fully and expeditiously respond to information requests from staff on that.

Mr. WALCOFF. Absolutely.

[Post-Hearing Questions and Responses for the Record from VA appear on p. 91.]

Mr. HALL. Thank you. Dr. Roe.

Mr. ROE. Thank you, Mr. Chairman. It was stated several times that—and also, Mr. Walcoff, thank you for 35 years of service to our veterans—that no veteran was adversely affected. And yet in your testimony you said they had lost trust, so all of us were adversely affected. When you lose trust in the system, then when a veteran's claim doesn't get done, has mine been shredded. And that is all we have is our word and trust. That bond we have that we are going to do everything we can to adjudicate your problem, not the other thousands that are out there, but your problem. You are the most important person in the world right now when you are that veteran.

So I would argue we have got to gain their trust back, because I hear that. And I would ask that same question, did my record get shredded if it wasn't, didn't get appropriately looked into? So I would argue and certainly inadvertent dating is—I mean, I have written the third down when it was the fourth, everyone has done that. But when you deliberately do something like these folks did, that is not ever acceptable. So I would argue that is the case.

And I think that just a statement and then your answer. It seems to me that throughout the testimony we have heard today, it is clear that we need a paperless, electronic system. And I completely agree with you. It is still garbage in and garbage out. I mean, when you do—have a system there, it won't solve all the problems. Our EMR system created some problems. And there will be some things you are not even expecting that are going to happen when you go to this system.

And I will assure—I am going to tell you right you are going to hear a lot of complaining when you go to this system. It is going to be difficult, and hard, and will take some time to do. It is going to take a lot of patience to do. But I support that. I think you have to do it. And I will support that.

I want to make it clear, though, here in Congress this—the cost overruns, delays in delivery, all of that we have got to do this in a timely fashion. And not say, hey, this is hard to do, so I am not going to do this either, which is what will happen. And we expect delivery of this system be on time, and on budget, and perform. Certainly our veterans deserve it and so do our taxpayers.

You also are correct that following up on where a chart is is one of the most frustrating things in the world in my own office is to start looking for a chart. And it is on this one's desk, and it is over here, and it is over there. So to try to ever find one sometimes or to put a finger on who was responsible for that chart, when it is lost, what I found is nobody was responsible for it. It didn't happen on anybody's shift. You probably have experienced the same record I—I mean, same situation. I will stop and let you answer or just comment.

Mr. WALCOFF. Well, if I can—there are two things that I want to comment on. First of all, I appreciate your comments about our plan to go paperless and the importance of staying on that plan and finishing on time.

We recently, I guess it was probably about 2 months ago, gave a briefing to the staffers of this Committee on the status of our paperless initiative. And at that time, expressed a willingness to

brief this Committee and its staffers as many times as they wish, so that they feel comfortable with the fact that we are staying on schedule.

We have started working with a lead systems integrator. We are working on—with another contractor working on business transformation. We are looking at some of the things that were talked about here about scanning options and whether you do it in one place or whether you do it in 57 places. So these are all issues that have to be resolved in order to get it right.

But we are still on schedule for being paperless by 2012. That was the schedule that—it was the charge we got from the Deputy Secretary last year. And we are committed to meeting that deadline. So I appreciate your comments on that.

As far as the difficulty in tracking who is responsible, I know exactly what you are saying. And our process does require the file to move to many different places. And that is one of the things that we look at and the way—the process we are using to work claims. And as we look at—we are constantly looking at that process. The many hand offs that are involved is one of the things that we are looking at and saying is this necessary?

So, I don't know what that—where we are going to go with that. But it is certainly an issue, as you have mentioned. And it is something that makes it difficult to trace back to any particular individual when something goes missing.

Again, electronic I think, you know, if you have somebody—if you have a way to make it so that every time somebody touches that electronic file it is recorded, then you know who has touched that file.

Mr. ROE. I thank you. Mr. Chairman, thank you for your indulgence. And for the remainder of the hearing I would like to ask unanimous consent that Minority Counsel be permitted to ask questions of the witnesses.

Mr. HALL. Without objection, after other Members have had their chance.

Mrs. Halvorson, you are recognized.

Mrs. HALVORSON. Thank you, Mr. Chairman.

I have a couple of questions. But thank you again panel. And, Mr. Walcoff, I understand that if this was easy to fix, you have been there 35 years, you would have done it already. So this isn't something that can simply just be fixed overnight.

However, I do have one question. I can't help myself. I do have to ask. You know, in the first panel we were discussing the fact that it is just so much easier to deny everybody's benefits. And it forces them to appeal. Why is it that we just can't go the extra mile to help our veterans and get through it first instead of just denying and forcing everybody to go and appeal, which forces you to have to deal with something twice and even sometimes more?

Mr. WALCOFF. If you will, I will just have to tell you that I disagree with the premise that it is easier to deny. What we find is we do have a lot of complaints about our work, our work measurement systems. When I say work measurement, I am talking about the way we evaluate individuals.

And I think there seems to be a consensus among everybody on both sides of the table that we need to look at that. The law that



you passed last year requires us to look at it. Frankly we were going to look at it anyway.

But what is interesting is that a lot of our managers are unhappy with those same standards. But they are unhappy about it because they feel it rewards an individual VSR for what we would call over developing a case, because they get credit. Every time they go out and ask for evidence, they get credit for that.

Mrs. HALVORSON. Yeah.

Mr. WALCOFF. That counts toward their production goals. So they feel that there is sometimes is an incentive for employees to go out and ask for something that they don't really need. They already have enough evidence to grant. But yet they go out and ask for another piece, because they will get more credit.

So, you know, that is certainly not something that is the right thing to do, nor, obviously, would be—

Mrs. HALVORSON. Right.

Mr. WALCOFF [continuing]. What you were describing where they deny just to get the case off their desk.

Mrs. HALVORSON. Mm-hmm.

Mr. WALCOFF. So I think the answer is that we agree that we need to look at the way we measure individual performance. And we need to make sure that the way we do it is what is best for the veteran. And it encourages the types of behavior that are right for veterans.

The one thing I do want to disagree with that was said by Mr. Abrams is that all we care about is productivity and we don't care about quality. If you look at the individual performance standards that we have on individuals, there is obviously a component for production. But there is an equal component for quality. And they are both measured for individuals. And they are both measured when we evaluate our directors and the performance of stations. Both are important. And, you know, I certainly want to make that clear that we do not ignore quality.

Mrs. HALVORSON. And that is good to hear, because it saddens me to think that the veteran who has done everything that they can—the only thing I want to do is just ask—I want to know what steps you are taking to ensure that our veterans—that this is not the culture in the VA. The fact that these incidents that we are discussing today, the shredding of documents, the misdating of claims, are all terrible reflections on the VA. We need to get that trust back. I just would like to know what steps we are taking to ensure that our veterans—that we can go back and tell our veterans that this is not the culture of our VA. And what kind of sort of behavior are we going to tell them that we are not going to tolerate, that we are going to turn this around. Do you have any ideas?

And why have we only heard about the mail amnesty through—or why is it that we have only heard of the mail amnesty through the OIG's testimony, not anywhere else?

Mr. WALCOFF. I know that I was going to answer the mail amnesty question in writing.

Mrs. HALVORSON. Oh, that is right. Since we are going to have to vote, maybe—

Mr. WALCOFF. Yeah.

Mrs. HALVORSON [continuing]. That is probably best, because that might take a while.

Mr. WALCOFF. Because I want to specifically talk about that. But I think your question is a very fair one. And this came up at the roundtable that Chairman Filner had back in December.

Mrs. HALVORSON. Yes.

Mr. WALCOFF. And his point was that there was a—this was something that was in our culture, you know, this dishonesty, and that veterans have lost trust in us because of that. And I don't agree that it is in our culture. I think that I can't deny, obviously, that individual events happened.

But I will tell you that in terms of the shredding, for instance, we found, and the OIG concurred, that the overwhelming percentage of cases where there were documents where they shouldn't have been, were placed there inadvertently through carelessness, which I am certainly not defending but not through intentional acts.

And we believe that by properly training, by putting a system in place where we have checks and checks on actions taken by individuals, that we can set up a system that is a deterrent that causes people to say, hey, I have got to be thinking about what I am putting here, you know, rather than just picking up pieces of paper and not caring that maybe there is a piece of paper in the middle of that file that shouldn't be there.

So I think that we are trying to set things up that will send a message to employees that it is part of their responsibilities to ensure that these things don't happen. Even if we know that—we say we know you are not doing it intentionally, but yet you still have a responsibility to make sure you know what you are doing.

Mrs. HALVORSON. All right. Thank you very much. I yield back.

Mr. HALL. Thank you, Mrs. Halvorson.

Mrs. Kirkpatrick.

Mrs. KIRKPATRICK. Thank you, Mr. Chairman. I just simply want to thank you for having this hearing today and thank our panelists. It has been very, very enlightening to me. I do have some questions, but since we have been called to the floor, I am going to submit them in writing. So thank you very much. And I yield back.

Mr. HALL. Thank you, Mrs. Kirkpatrick. Would Minority Counsel like to ask a question or two, or submit them in writing with our questions?

Mr. WU. Yes, sir.

Mr. HALL. Okay. We will combine our questions and send it to you and ask for a response as soon as it is possible.

Thank you once again for your testimony. Thank you for taking the initiative that you did to find out once you discovered that something was amiss, especially in the New York RO. As a representative from the State of New York, I want to thank you for our veterans in New York.

We are happy to hear that individual veterans received their claims and did not suffer directly as a result. But as many Members said, and as you said, the trust, the bond of trust between our veterans and the VA needs to be strengthened. These kinds of things can only weaken it.

So thank you for the work you are doing on this. We are looking forward to that next briefing on the paperless system and anything we can do. As you can hear the enthusiasm from outside of the table for it. We are looking forward to that being the case.

Ms. Rubens, Mr. Mayes, and Mr. Walcoff thank you again for being here. This hearing is now adjourned.

[Whereupon, at 3:37 p.m., the Subcommittee was adjourned.]

## A P P E N D I X

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

Good Morning Ladies and Gentleman:

I welcome you today for our first hearing during the 111th Congress and I am pleased to be joined by my colleague, Harry Mitchell, Chairman of the Oversight and Investigations Subcommittee. We are also being joined by House Committee on Veterans Affairs Chairman, Bob Filner, who has been leading the way in making the VA an advocacy system instead of an adversarial one.

Congress' accomplishments for veterans last year were great. I am eager to see implementation of P.L. 110-389, the Veterans Benefits Improvement Act of 2008 that will take steps in righting the many wrongs in the VA claims processing system. However, there is still much more room for improvement and this promises to be a very active Congress with a new Secretary we are eager to work with.

It is regrettable that we are starting this Congress with so many untoward problems within the VBA claims processing system making news headlines. In the last few months, we have tracked the problems brought to our attention with misdating of claims at the New York Regional Office, documents wrongly placed in shredder bins, and denying widows their survivor benefits.

The situation in New York was a clear attempt by managers to fudge performance numbers. The incorrectly entered data made the regional office look like it took fewer days to process claims than in actuality—yet still beyond acceptable levels to me—or to most veterans. Although veterans were not directly harmed by this practice, perpetrators of this kind of dishonesty impact the entire veterans' community's ability to trust the institution charged with its welfare. This is shameful!

On the heels of this revelation, there were reports of documents inappropriately placed in shredder bins—documents needed to process claims or that should have been returned to the veteran were dumped for shredding. As a result, some veterans' claims were harmed and adjudication did not properly take place. This is even more shameful!

And finally, we saw headlines about widows being cheated out of millions of dollars—over a 12-year period—while VA ignored Congress' intent to help these very same widows. VA explains this oversight as a computer glitch. But again, it's shameful!

The misdating, shredding, and glitches that the media recently reported, I am afraid, are only the tip of the iceberg. I have heard too many accounts from veterans and their survivors about missing, lost, or destroyed files, and VA sending them multiple requests for information then still not knowing where a file is or who had it last.

Even when the veteran or survivor has sent documents return receipt requested, VA manages to not know their whereabouts. Besides the infamous fire in St. Louis and the current shredding issue; claim folders have managed to be lost or destroyed in many other ways over the years. This has included records being misfiled or misplaced within a regional office or lost in transit between regional offices, medical, pension, insurance or debt management centers, the Board of Veterans' Appeals, the Appeals Management Center, or the U.S. Court of Appeals for Veterans Claims—not to mention the issues with Defense Department sharing. Even further beyond comprehension are the accusations by veterans and their families that VA employees would purposefully and maliciously destroy, falsify, or steal a claim folder to avoid granting a benefit.

A lot of VA employees touch a claim folder, but rarely is anyone held accountable or responsible when it is lost or destroyed. Furthermore, we are still talking about an outdated system that is heavily dependent upon paper records. So, it is easy to conceive how a paper document can be mishandled. An electronic system from application to adjudication could mitigate some of these losses—if properly implemented—unlike the way it was handled for widows expecting a month of death ben-

efit or at the RO in New York. This is where new approaches to leadership and oversight are crucial and accountability is essential.

Today's witnesses will provide us with an overview of these problems. We will hear from the veterans' service organizations and the AFGE who will provide us with insights into how veterans and their dependents are harmed when VA mishandles their documents and how improvements can be made to the system.

Next, the VA Office of the Inspector General will share what it has learned about document mishandling. Finally, the Under Secretary for Benefits, and the Systematic Technical Accuracy Review Office will give us their feedback on these problems and hopefully will outline a strategic plan for the future that will correct the records mismanagement problems we have seen in the past. So, I am grateful that the Under Secretary is here himself today because the accountability issue begins with top leadership.

I have been on a track to modernize the VBA's out of date claims processing system. I envision VA as an Agency that we as a nation are proud of in the way that it serves the welfare of our disabled veterans. When it comes to discharging those responsibilities, shameful acts are what should be archaic practices.

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**Prepared Statement of Hon. Harry Mitchell, Chairman,  
Subcommittee on Oversight and Investigations**

First, thank you to Chairman Hall and the Disability and Memorial Affairs Subcommittee for working with the Oversight and Investigations Subcommittee to convene this hearing.

For too long, the spotty record of the Department of Veterans Affairs has led veterans and observers to view the Department as the worst kind of bureaucracy—massive, aloof, and unaccountable. Today, we have the opportunity to address a number of bureaucratic shortcomings and take a step toward a more personal, accessible, and accountable VA.

Some mistakes are already being addressed. I am encouraged that the VA is taking steps to compensate the widows of veterans whose benefits were wrongly docked when their spouses passed away. I look forward to receiving a status update from the VA.

However, we have now learned that the shredding of documents may only be the tip of a very large iceberg. VA's Inspector General tells us that in July 2007, the Detroit regional office had a "mail amnesty" during which employees could turn in unprocessed mail and documents without repercussion. Detroit regional office employees produced almost 16 thousand items. Sixteen thousand! Among these were 700 claims and 2,700 medical records and/or pieces of medical information. None of these claims or documents was in VBA information systems or associated claims files. The IG was told by VBA regional directors that there were amnesties at other regional offices as well. Obviously we are going to have to get complete information from VA about these amnesties, but it is impossible not to be shocked by the numbers from Detroit. Shredding documents, or burying them in the bottom drawer, is a breach of trust by VA. Whether that breach of trust comes as a consequence of inadequate training or negligent or deliberate behavior, Congress must not and will not tolerate it.

We will also hear testimony about data tampering that inaccurately reflected claims processing speeds at regional offices. A decision by management to lie about performance indicates creeping institutional decay that must be rooted out before it further erodes quality of care. The VA must restore integrity to its claims system and redeem the trust of the veterans it serves.

I am eager to hear a detailed account of these issues from the Inspector General's office, and I trust that the VA will provide a candid explanation of what went wrong and how they will ensure it never happens again.

I am also eager to hear from the VSOs about the impact of these failures on the veterans' community, and from the American Federation of Government Employees about the effectiveness of VBA policy.

Mistakes like these simply need not happen. They are avoidable as they are awful, and they rob us of time that could otherwise be spent planning outreach to veterans, easing the transition from soldier to civilian, or constructing a 21st century benefits program. But, I am heartened by the vision, dedication, and know-how that Secretary Shinseki brings with him to the task of serving America's veterans, and I am hopeful the VA can avoid similar pitfalls under his leadership.

Thank you to our panelists for appearing today. I look forward to working with you to achieve the openness, accountability, and action that veterans deserve from the VA.

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

Good Afternoon Mr. Chairman. I am very happy to be back as Ranking Member of the Subcommittee on Disability Assistance and Memorial Affairs. I greatly enjoyed the favorable rapport we developed last Congress, and the bipartisan manner in which you and I and our staffs worked together. I look forward to another productive session.

I would like to welcome our colleagues from the Subcommittee on Oversight and Investigation and all of our witnesses here today, including my counterpart on the Subcommittee on oversight and investigations, the Ranking Member Dr. Phil Roe of Tennessee.

Mr. Chairman, we made a lot of progress in the last Congress toward modernizing and improving the VA claims processing system, and it is my hope that the reforms we put in place in Public Law 110-389 will help prevent future document management problems like the ones we are examining today.

I would also like to thank you for endorsing my idea to require VA to move toward a paperless, rules-based adjudication system. While the paperless system is not a panacea, you and I both know that if VA's files were all electronic, the shredding incident could have been avoided. I thank VA for acknowledging that in their testimony.

When a veteran submits a claim for disability compensation, they must be able to have trust that VA will adjudicate their claims in a timely and accurate fashion. Unfortunately the shredding incident has violated this trust for many veterans and it is now VA's job to regain it.

What troubles me the most about the shredding incident, is that the number of documents VA found during its spot check was merely a 1-day snapshot of what appears to be an ongoing problem. VA will probably never know how long this mis-handling has been going on or how widespread the practice was.

However, I do applaud VA for their swift action in removing the employees that were responsible for the documents that were found. I find it very unfortunate that the actions of a few have tarnished the work of so many dedicated VA employees.

Veterans need to be able to trust the integrity of the VA system, and I believe they are on the path to regaining this trust. I do believe, however, that VA's current plan to have every document signed off by two people before it can be shredded is highly inefficient. I encourage VA to find a more reasonable approach to protecting claimant's files without adversely affecting production, and I hope today's discussion will produce some possible alternative solutions.

Another focus of this hearing is the misdating of claims at the New York Regional Office and other offices around the country. As disturbing as this is, I am relieved to know that the actions of a few individuals have not adversely affected any veterans or survivors.

However, these actions underscore the need to review and possibly change VA's work management program. Such review was mandated by P.L. 110-389, and I look forward to hearing more about this review once it is completed.

I am reassured by the findings of the Inspector General that the problem is not believed to be systemic, and that the employees involved in the backdating have been removed. That concludes my statement, Mr. Chairman. I thank the witnesses for their attendance, and I look forward to hearing their testimony. I yield back.

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**Prepared Statement of Hon. David P. Roe, Ranking Republican Member,  
Subcommittee on Oversight and Investigations**

Thank you for yielding, Mr. Chairman.

I would like to start by saying that I am looking forward to working with the Members on both of Subcommittees here today, and particularly with you, Mr. Mitchell, and the other Members on the Subcommittee on Oversight and Investigations as the Ranking Member of the Subcommittee. I understand that you and my predecessor, Ms. Ginny Brown-Waite, had a good working relationship on this Committee, and I hope that we can continue in that vein as we conduct oversight on issues relating to the Department of Veterans Affairs, and work to assist those who sacrificed so much for the good of our country, our Nation's veterans.

The issue at hand, document mishandling and shredding at the Department of Veterans Affairs is unacceptable. When these issues came to the forefront of our scope back in early October of last year, during an investigation by the Office of the Inspector General showed that documents necessary for processing claims were found in shredding bins at several Veteran Benefits Administration (VBA) facilities. Further issues arose from documents with adjusted "date-of-claims" which initiated a request by Ranking Member Buyer on October 14, 2008 for an OIG investigation into the issue.

Our Nation's veterans deserve better than this. The mishandling of their claims documents is inexcusable. The VA is responsible for assuring our Nation's veterans that they will be given every opportunity to submit their claims, and have their complete claims file reviewed in a timely manner. I appreciate that former Secretary Peake took immediate action to address these issues, and I look forward to hearing from today's witnesses on what further actions have been taken to rectify this situation.

Again, thank you Mr. Chairman, and I yield back.

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

Messrs. Chairmen and Members of the Subcommittees:

On behalf of the 1.2 million members of the Disabled American Veterans (DAV), I am honored to appear before you today to discuss document tampering and mishandling within the Veterans Benefits Administration (VBA). In accordance with our congressional charter, the DAV's mission is to "advance the interests, and work for the betterment, of all wounded, injured, and disabled American veterans."

On August 20, 2008, the VA Office of Inspector General (OIG) initiated an audit of the Veterans Benefits Administration's (VBA) regional office (RO) mail processing. The OIG audit team examined mail-handling activities and triage areas in four VAROs. The team found 36 pieces of active mail and 93 other original documents in the shred bins.

The type of active documents identified during the audits included: VA Form 21-526, *Veteran's Application for Compensation and/or Pension*, VA Form 21-686c, *Declaration of Status of Dependents*, VA Form 21-674, *Request for Approval of School Attendance*, and documents constituting informal claims. The other original documents found by the OIG audit team should not have been designated for disposal because of their evidentiary value (e.g., original or certified copies of birth certificates, marriage certificates, DD Forms 214, *Certificate of Release or Discharge from Active Duty*, and medical evidence).

Following the OIG's findings, the Secretary of Veterans Affairs (Secretary) ordered a cessation of all shredding activities in VAROs, effective October 14, 2008, and a search of all shred material on hand in field offices. The VA reported that the search identified 474 documents requiring action or retention.

Shortly thereafter, the VA drafted a comprehensive action plan that implemented numerous procedures to eliminate any repeat records mishandling. The draft plan included the creation of a Records Control Team tasked with reporting to the VA's Under Secretary all draft revisions to policies and procedures for proper document handling. Through the action plan, the VA created Records Management Officers (RMOs) and Division Records Management Officers (DRMOs) to oversee proper records handling and ensure compliance with the action plan.

The draft plan requires a two-person review (employee and employee's supervisor), approval, date, and dual signatures on any documents marked for shredding. Documents determined inappropriate for shredding are returned to the employee for proper training. Further, the VA now requires each employee to maintain an individual shredding receptacle. The RCO must verify and approve every document in each shredding receptacle before shredding. The sequential steps in the foregoing new procedures are as follows:

1. Documents will be bundled by claimant name.
2. Employee will sign, date, and record reason for destruction.
3. Hand carry documents with claims' file to supervisor for review and approval.
4. Supervisor will review, sign, and date documents/envelope, if approved; if not approved, the supervisor will return the records to the employee for additional training.
5. Documents will be placed in appropriate container. Each day (or as directed) container will be hand carried to the DRMO.

6. The DRMO will review documents for appropriateness of destruction and forward those that are appropriate to the RMO.
7. The RMO will, if appropriate, place the material in the shredding bin.

The VA's new document handling procedures contain many other specific instructions, such as those for out-based and work-at-home employees, handling destruction of sensitive material, and handling from non-VBA organizations. The draft plan also requires regular systematic analyses of operations; enhanced training on proper document handling; and, enhanced management oversight, which includes unannounced site visits.

Special, but temporary procedures were also put in place concerning VA claimants who asserted they were harmed by improper document handling. Essentially, the Secretary determined that temporary special claims handling procedures were appropriate. He therefore relaxed certain administrative claim submission requirements for claimants who assert they submitted a claim or evidence within the 18 months preceding the date that shredding activities ceased in VA regional offices. This includes claims or evidence submitted between April 14, 2007, and October 14, 2008.

These temporary procedures were established to accommodate for any loss of claims' information or evidence that may have occurred as a result of inappropriate document disposal during this period. RO personnel were given specific instructions on the use of temporary special claims handling procedures.

Claimants who believe their claim was affected by improper document handling must assert their request for consideration under the temporary special claims handling procedures in response to the records incident within 1 year from November 17, 2008. RO personnel will exercise the Secretary's authority to recognize a claimant or representative's assertion that a claim and/or supporting evidence had been previously submitted to VA during the 18-month window from April 14, 2007; to October 14, 2008. The effective date will be established as though the claim was received on the date asserted by the claimant. Effective dates earlier than April 14, 2007, may be established based upon receipt of credible evidence supporting the earlier date of document submission. Fortunately, VA officials report that there have been less than 300 claims filed under the relaxed evidentiary standards.

#### **Analysis**

The DAV cannot and will not attempt to minimize the severity of this situation. A snapshot in time was taken of VBA field stations. That snapshot revealed nearly 500 documents improperly marked for destruction. Were these shredding bins already emptied for the month, or had this number accumulated over several weeks? Were any offices tipped off regarding the forthcoming events in order to prepare? Over the course of a year, and certainly numerous years, even the most conservative answers to these and other questions equal thousands of veterans and their dependents potentially harmed by such unlawful acts.

A large section of the veteran community and representatives of the community have long felt that VBA operates in such a way that stalls the claims process until frustrated claimants either give up or die. The DAV is confident in stating that no such attitude exists within any section of VA's leadership. Nonetheless, DAV's reassurance will not change some of the public's mind concerning this notion, at least with respect to rank and file VA employees, because the unlawful destruction of these and other records has done nothing but reinforce this opinion.

Whether we are leaders in Congress, leaders in the VA, or leaders in the veteran community, we all fail in those roles if we do nothing more than scrutinize and cast blame rather than working to erase this stain on VA's reputation. The challenge before us is not merely how to prevent such actions in the future, but how we recognize the faults in the current system that allowed such actions to take place. Once we acknowledge and understand the faults, the challenge then is progressively changing the structure of the system to prevent such actions.

One demand from the collective veteran community is accountability for those guilty of the unauthorized willful destructions of records. This request does not insinuate that VA's leaders take this situation lightly. On the contrary; first, the VA should be commended for its own audit functions having detected the problem in the first place. Second, the VA's action plan as described above is unprecedented.

The action plan implemented by VBA's leadership indeed exemplifies the magnitude of oversight that its leadership is willing to employ to protect the integrity of important claimant records. However, in understanding (1) the foundation upon which the claims process is built; (2) the sheer volume of work and labor-intensive nature of the process; and (3) the pressure on VA employees to manage that work, together with the potential impact such deliberate and near systematic actions have



on the integrity of the system and the trust of its stakeholders, then it is easy to understand why oversight of this scope is necessary.

Much of the veteran community nonetheless desires to see more accountability for such acts. We understand that the VA has taken various steps to punish those guilty of wrongdoing, but we are unaware of those exact steps. Actions such as re-assignments, demotions, even termination, is not, however, our focus. Our focus is on the lack of accountability built into the law for government employees that commit fraudulent acts against VA beneficiaries.

The law that governs all benefits administered by the VA is contained in title 38 of the United States Code. Many chapters and sections of law in title 38 deal with punishment such as fines and imprisonment for various fraudulent acts. For example, chapter 19 contains provisions that punish VA beneficiaries who commit insurance fraud. Chapter 61 is an entire chapter dedicated to penal and forfeiture provisions, such as those that mandate fines and imprisonment for VA claimants who commit fraud in order to receive benefits. Chapter 59 even contains provisions specific to “agents and attorneys” who wrongfully withhold benefits from a VA claimant in the course of representation. Provisions in each of these chapters impose punishment such as fines and/or imprisonment. Indeed, the VA has punished many veterans, veterans’ representatives, and VA employees in accordance with these provisions.

History has proven a need for each foregoing section of law. Ironically, no section of law in title 38 imposes punishment specifically upon VA employees who fraudulently withhold benefits from VA claimants, such as the act of destroying claims and evidence in support of claims. Without further discussion, the actions we are addressing today unquestionably reveal a need for changes in law that equally punish VA employees who fraudulently withhold benefits as it currently punishes those who fraudulently obtain benefits. The message must be clear—if you destroy a veteran’s records, whether through malice or desperation, you will go to jail.

The DAV ultimately believes the cause of unlawful records’ destruction is clear. They are desperate, albeit irresponsible and unlawful, acts of a workforce nearly at its breaking point. The cause of the breaking point is also clear—the massive claims backlog, including appeals; the increasing number of annual claims received; and the production goals VA places on employees.

The VA received over 880,000 “rating claims” in fiscal year (FY) 2008, over 88,000 more than anticipated in the FY 2008 Budget Submission, and 50,000 more than it received in FY 2007. This kind of increase in claims’ receipt has held steady since the beginning of the ongoing armed conflicts and shows no immediate sign of slowing. Likewise, according to VA’s weekly workload report, as of February 14, 2009, there were 667,043 rating and non-rating cases pending in VBA, and 191,043 pending appeals, totaling 858,764 pending cases in VBA. This is nearly 29,000 more than the same time last year, and over 75,000 more than the year before.

Our objective in highlighting the above statistics is not to reprimand the VA on claims or appeals backlog, but to highlight the reality of how labor and paper-intensive the claims process has become. Nearly all of the foregoing statistics represent a claims’ file consisting of a paper record containing hundreds, if not thousands of pages. While there is no excuse for the deliberate destructions of records, it is entirely conceivable that factors discussed herein provide a basic explanation as to what may have driven some employees to resort to these unlawful acts.

As clear as we believe an explanation exists for these acts, there exists a solution. The VA must go paperless. This has been a goal of Congress and the VA for some time. The DAV fully understands the monumental nature of such a challenge, but we also believe the VA can meet the challenge with proper support from its stakeholders and from Congress.

VA has already begun to utilize advanced information technology (IT) solutions in many of its functions. For example, VA’s Pension Maintenance Centers have been paperless for a number of years. Recently, VA announced that its Benefits Delivery at Discharge (BDD) program has gone paperless. Veterans can also use the Veterans Online Application System (VONAPPS) to file a claim via the Internet. In fact, VONAPPS allows veterans to upload evidence in support of the claim and attach it to the online application for benefits; however, it does not yet allow a claimant to check the status of a claim online, which is one of VBA’s ultimate goals.

Each of these programs are promising; however, they are also minuscule when compared to the remaining bulk of VBA’s paper-locked workload. The primary challenge therefore is how the VA can transform its current inventory of paper-based claim files into electronic format.

The DAV believes the one solution that Congress must consider above all else, is to immediately authorize and fund the formation of one, or more if necessary, large-scale imaging centers. Such facilities should have the sole function of transforming

paper records into electronic format to include incoming evidence in support of existing claims. Rather than utilizing every Regional Office in the Country, a facility with such a function would centralize VA records' management into a single location where the VA could ensure the integrity of a claimant's evidence.

The formation of these imaging centers could free VA's current moderate-sized staff who are tasked with receiving incoming and managing existing paper records. This sizable reduction in resources required for such tasks would then allow VBA managers to utilize those same resources to assist with claims development and adjudication.

The idea of transforming the paper-locked records system to an electronic records system is neither novel nor new. Rather, it has nearly been the centerpiece of all legitimate discussions on improving the claims process. Denying earned benefits by illegally destroying records should serve as the proverbial wake-up call that signals the urgency of this overdue transformation.

Prior to leaving office, the Honorable James B. Peake, M.D., Secretary of Veterans Affairs, agreed wholeheartedly. In an October 2008 letter to the U.S. Senate, Secretary Peake stated the following:

The shredding of documents that affect the benefits of veterans cannot be excused. As I have testified, we must move rapidly to the paperless processing of claims. There is no excuse for failing to leverage industry standards and technology in support of our veterans.

While this transformation takes place, the VA should update its basic IT infrastructure in order to accommodate the increase in electronic workload demand. For example, it would do the VA little good, if any, if 100 percent of its workload was in electronic format but its backbone could only handle 1 percent at a time.

The VA would not have to invent the wheel for such an ambitious task—successful examples already exist. For example, an Electronic Disability (eDIB) was a major Social Security Administration (SSA) initiative to automate and improve its disability claims process. Under eDIB, an electronic claims folder was created for individuals applying for Disability Insurance benefits.

Before the implementation of eDIB, the disability claims process involved gathering paper evidence and assembling the documents into a paper-based disability claims folder, exactly like VA's process. The paper folder was then mailed to the SSA components responsible for processing the claim.

Using eDIB, SSA captures disability evidence electronically and stores it in an electronic claims folder. The electronic folder can be easily and instantly accessed by all components involved in processing a disability claim, thereby eliminating the delay involved with mailing paper folders between components.

Under eDIB, any paper medical and non-medical evidence received to support a disability decision is converted to a digital image. To aid in this process, in August 2005, SSA entered into a 5-year Blanket Purchase Agreement (BPA) with Lockheed for nationwide scanning services. Under the BPA, Lockheed scans paper documents, creates digital images, and securely transmits the images to SSA. Lockheed also stores and destroys the imaged paper documents and protects the confidentiality of both the electronic images and the paper documents in its custody. The cost of the scanning service over the 5-year period was estimated at about \$124 million.

The SSA contract with Lockheed is only one example of success in transforming large paper-based systems to electronic format. There are many others of varying scale. The required technology is more cost effective now than ever. Therefore, the VA could likely reduce costs further by managing such a task internally. Nonetheless, initial contractual agreements are an option at the government's disposal.

### **Conclusion**

The laws that guarantee benefits to the Nation's service-connected disabled veterans instantly reveal to anyone willing to undertake the challenge of understanding those laws, the true magnitude of the Nation's gratitude paid to those who have born the battle. The VA's entire body of law is written with the veteran and his or her dependents in proper focus. The law is non-adversarial, pro-claimant, and veteran-friendly—this is not now, nor should it ever be in dispute. Simply put, Congress wrote the existing law in an honorable manner, equaled only by the honorable service disabled veterans provided to this great country.

It should therefore be understood that when addressing the claims process; the appeals process; the case backlog; or like today, these unfortunate records-shredding incidents, we are highlighting problems in VA's people- and administrative-processes, some of which require retooling from the foundation, such as transforming paper records to electronic records. Some require significant strengthening, such as enhanced VBA training and accountability. Others only require minor adjustments.

None of these changes, however, require modifying the sacred structure of laws that actually provide the benefits for which veterans have fought for decades.

Nonetheless, these acts undermine the very foundation upon which benefits law is structured—its overwhelming fairness. Reasonable minds can always disagree on complex matters, but destroying records equates to a matter of simplicity. It turns a fair process into an obstacle impossible to overcome. For this reason, our recommendation should be considered one of VBA's highest priorities and implemented immediately.

It has been an honor to testify today before your Subcommittees.

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**Prepared Statement of Ronald B. Abrams, Joint Executive Director,  
National Veterans Legal Services Program**

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to submit this testimony on behalf of the National Veterans Legal Services Program (NVLSP). NVLSP is a nonprofit veterans service organization founded in 1980 that has been assisting veterans and their advocates for 28 years. NVLSP has trained thousands of service officers and lawyers in veterans benefits law, and has written educational publications that thousands of veterans advocates regularly use as practice tools to assist them in their representation of VA claimants. NVLSP also conducts quality reviews of the VA regional offices on behalf of The American Legion. NVLSP also represents veterans and their families on claims for veterans benefits before VA, the U.S. Court of Appeals for Veterans Claims (CAVC), and other Federal courts. Since its founding, NVLSP has represented over 1,000 claimants before the Board of Veterans' Appeals and the Court of Appeals for Veterans Claims (CAVC). NVLSP is also one of the four veterans service organizations that comprise the Veterans Consortium Pro Bono Program, which recruits and trains volunteer lawyers to represent veterans who have appealed a Board of Veterans' Appeals decision to the CAVC without a representative.

**Background**

The VA has been rocked by a series of scandals during the second half of 2008. In July 2008, the VA's Compensation and Pension Service conducted a routine site visit at the VA Regional Office (RO) in New York City and discovered that 16 of 20 cases had an incorrect date of claim in a computer database that the VA uses to track and manage pending claims. It is clear that this regional office had a long-standing practice of manipulating statistics. For example, a later review of 390 cases showed a 56.4 percent error rate in the date of claim entered into the database. Then another review of 386 sample cases completed at the New York RO from fiscal year (FY) 2007 to the middle of FY 2008 revealed that 21.5 percent of cases had an incorrect date of claim entered in the VA computer database. In response to these reviews, the VA asserted that *no payments to veterans were affected by these actions* and that the errors "were a result of miscommunication."

This practice was not the only abuse found at the New York RO. During the fall of 2008, the VA Inspector General (IG) uncovered a significant amount of unopened or unprocessed mail and documents relevant to claims for benefits *improperly* placed in office shredder bins. The mishandling of documents was shown to be widespread. For example, an IG report found that 700 pieces of mail were found unprocessed during an October 6, 2008 visit. These deceptive practices led to the reassignment of the Director and Assistant Director of the New York RO. Also, four other VA managers from the New York RO were placed on administrative leave.

The news gets worse. By mid-October 2008, investigations by the VA IG revealed that other ROs were guilty of mishandling documents as well. Several ROs were *improperly* placing original documents *necessary to the outcome of veterans' claims* in shredder bins. On October 16, 2008, the VA Secretary suspended all document shredding until the IG and VA could determine the extent of the problem. Four ROs—Detroit, St. Petersburg, St. Louis and Waco—were named in the shredding scandal as of the end of October 2008, with more than two-thirds of VAROs in question.

**New VA Policy on Managing Paper Records**

The VA, in response to the shredding scandal, announced it tightened policies for the maintenance, review and destruction of paper. The new policies went into effect on November 14, 2008. Under the VA's new policy, RO shredding equipment and operations are controlled by the facility's records management officer. Every employee will have a separate envelope and a separate box for papers that are to be

shredded. These containers are subject to review by supervisors and other officials. Before any document related to a claim can be shredded, there must be two signatures (the employee's signature and the employee's supervisor's signature). (See VBA Letter 20-08-63 (Nov. 14, 2008)).

**VA Corrective Action:**

***“Special Claims Handling Procedures for Missing Documents”***

Special procedures now apply to veterans (and other claimants) whose claims may have been affected by the recent shredding abuses. The new policy is called the “Special Claims Handling Procedures for Missing Documents.” The policy covers documents allegedly filed during the 18-month period preceding the date that VA stopped the shredding of documents. This means that it affects documents purportedly filed between April 14, 2007 and October 14, 2008. See VA Fast Letter 08-41 (Nov. 14, 2008). The VA should have, but did not, promulgate a regulation to implement this special procedure.

If a veteran or VA claimant believes that documents submitted in support of a claim may have been lost or destroyed during the covered period (April 2007 to October 2008), they may review their claims folder at the RO to see if the documents in question have been associated with the claims file. Veterans and claimants concerned that documents may be missing can contact VA toll free at 1-800-827-1000 or send an inquiry to IRIS@va.gov. Any request to the VA should mention the “Special Claims Handling Procedures for Missing Documents.”

Veterans must file a request under the “Special Claims Handling Procedures for Missing Documents” by November 17, 2009. As noted, the request should include the date the document was originally submitted to VA and, if possible, a copy of the missing documents. If the veteran does not have a copy of the document(s) submitted, the VA says it will assist the veteran in obtaining a duplicate copy of evidence if it pertains to a VA medical record, a private medical record, or other supporting evidence—providing that the veteran or the veteran's representative, if any, gives the VA as much information as possible to specifically identify the document.

If the missing document is an application for benefits, the veteran should complete another application for benefits and submit it with a request for consideration under the Special Claims Handling Procedures for Missing Documents, providing the date that the original application was filed. If the veteran has already resubmitted an application for benefits but wants the VA to consider the effective date of the original application filed, a request for consideration under the Special Claims Handling Procedures for Missing Documents should be made. A grant of benefits based on a duplicate application should be paid from the date of original submission.

If a veteran believes that documents (including applications) submitted before April 14, 2007 were lost or destroyed, then credible corroborating evidence to support a finding that such documents were filed must be submitted. This is a much higher standard than the standard that applies to missing documents submitted between April 14, 2007 and October 14, 2008—which basically allows consideration of earlier submissions based on little evidence or on the word of the veteran.

**What to Do Now**

It is clear that the VA has very serious problems in its claims adjudication system. What we need to do now is determine both the cause of the problems (statistical manipulation and shredding) and the cure for these problems.

**What Caused This Disgraceful Problem**

NVLSP believes that longstanding VA policies were the major cause of this employee misconduct. The method that the VA uses to grant work credit and assess the performance of VA officials is the main culprit. The performance of VA employees/managers is judged (in part) by the number of benefits claims completed during a given time period, usually a calendar or fiscal year. Completion of a large number of claims is essentially considered the equivalent of good work performance.

In the experience of NVLSP, (over 10 years of quality reviews, in conjunction with The American Legion of approximately 40 different VAROs combined with extensive NVLSP representation before the CAVC and the BVA), most of the most egregious VA errors and misconduct involve an attempt to prematurely issue a decision on a claim before the evidence the VA is required to obtain to help the veteran substantiate his or her claim is associated with the VA claims file. This rush to judgment is caused by pressure to quickly complete adjudications. Many VA managers emphasize quantity over quality. VA employees have formally complained that the culture in the VA regional offices emphasizes *quantity* to the detriment of quality.

The major cause of VA employee misconduct is a VA work credit system that prevents the fair adjudication of many claims for VA benefits generating extra work for the VA and major problems for claimants. Also, the inadequate quality of many

VA adjudications and the inadequate number of trained adjudicators contribute to the size of the backlog which pressures VA employees to take unlawful shortcuts in adjudicating claims.

#### **The Unfair VA Work Measurement System**

The current VA work credit system prevents the fair adjudication of many claims for VA benefits and encourages the type of misconduct that has so embarrassed the VA. The current VA work credit system needs to be overhauled because the current system rewards VA managers and adjudicators who claim multiple and quick work credit by not complying with the statutory duties to assist claimants obtain evidence that would substantiate their claims and notify claimants of what evidence would substantiate their claims.

The VA work credit system tends to create cynical and corrupt VA employees. Some VA adjudicators who are pressured to take shortcuts and to make premature adjudications, may decide that destruction of records or statistical manipulation of dates of claim, are “not such a big deal”—because these actions promote a temporary reduction of the claims backlog and because unlawfully inflated production statistics support bonuses and promotions for VA adjudicators and managers.

The VA work measurement system tends to drive what and whom it measures. VA managers are evaluated by how many end products (i.e., work credits) they produce, how quickly they can take credit for end products, how many employees they need to produce these end products, and last, the quality of the work in the office they manage. Because it is in the best interest of the VA managers to complete as many cases as quickly as they can, the interests of VA managers in many cases stands in opposition to the interests of claimants for VA benefits.

Responsibilities of VA managers that protect the fairness of the adjudicatory process—such as “control” of claims, supervisory review of unnecessarily delayed claims, thorough development of the evidence needed to decide a claim properly, recognition of all of the issues involved, provision of adequate notice, documentation that notice was given, and careful quality review—all adversely affect the productivity and timeliness statistics (that is, how many decisions on claims are made final within a particular period of time) for the VA manager. Consequently, proper attention by VA managers to their legal obligations very often adversely affects the statistics upon which their performance is rated.

The work measurement system creates a tension between claimants and VA bureaucrats that fosters the current corrupt VA adjudication climate. This is an untenable situation. Fortunately, because we have a new Secretary and because the current scandals have brought these problems to the public’s attention, we have a chance to fix most of these problems.

#### **Solutions**

The VA has been studied by blue ribbon panels, by the Government Accountability Office (GAO), by the VA Inspector General, by various other special commissions, and even by university professors. Most solutions focus on reducing the VA backlog by reducing or even eliminating the procedural rights veterans enjoy today. NVLSP believes that the primary goal of any proposed solution is to ensure that deserving claimants are paid their service-connected disability benefits correctly, promptly, and efficiently.

NVLSP suggests that the cure needs to fix the fundamental problems that corrupt the current VA claims adjudication process. At a minimum, there are three things the VA must change in order to improve its claims adjudication system.

**First** the VA must hold VA adjudicators and managers accountable for the quality of their work they produce. The following are some examples that could be implemented to support accountability.

- Rational and realistic performance standards should be established.
- Bonuses and promotions should be awarded to managers and adjudicators who are both productive and accurate.
- VA managers should be provided statistical amnesty because current VA statistics are not (as the current scandal reveals) reliable. In order to obtain accurate data VA managers should be encouraged to present truthful statistics even if they are much worse than what has previously been reported.
- VA managers (Service Center Managers and VA Directors) should be regularly transferred in order to foster consistency in adjudication and to prevent balkanization.
- The claims process improvement model (CPI) should be eliminated and the VA should go back to the case management concept. The CPI reduces accountability and creates the impression that the VA adjudication divisions are producing widgets.

- Managers who manipulate statistics should be severely punished.

**Second**, in order to properly measure its work, in order to properly hold employees and managers accountable and in order to provide an incentive to VA employees to take the time to fairly adjudicate claims—the VA needs to change the way it measures its work. Work credit should not be awarded until after the appellate period expires or the appeal is resolved. This would promote quality work and speed the overall adjudication process because it would reduce and in some cases eliminate repeated BVA remands.

**Third**, in order to enforce the fairness of the system (for claimants and for VA employees) the VA needs to create an independent quality review system that is outside the supervision of the Under Secretary for Benefits.

- The Central Office quality review team should be supervised by an official who will not be adversely impacted by negative findings.
- The VA Central Office quality review program should be amended so that the quality review team reviews entire file (as opposed to just a current action) and the VARO is held accountable for all errors noted.

### **Streamlining**

Once the above three solutions have been implemented, then it is time to streamline the VA claims adjudication process. For example,

- The VA has many hearing loss claims and expends a lot of time trying to resolve the dispute whether the veteran was exposed to acoustic trauma during service. The entitlement criteria should be simplified through the creation of a presumption that all veterans were exposed to acoustic trauma in service. It costs more money for the VA to develop the evidence on, and adjudicate this issue than it is worth. Of course, this does not mean all veterans with hearing loss will receive service-connected disability benefits. It means that veterans who can link their current hearing loss to service can have their claims promptly adjudicated.
- Another time consuming issue for VA adjudicators is deciding whether a veteran who has applied for service-connected disability benefits for PTSD was exposed during service to a stressful event. The entitlement criteria should be simplified through a rule requiring VA to agree that a veteran suffered from a stressful event during service if the veteran served in a combat zone and submits a sworn statement that he or she suffered from a stressful event while in that combat zone.
- Under current law, whenever the claimant submits additional evidence after submitting a notice of disagreement to appeal an RO denial of benefits, the RO must readjudicate the claim by reviewing all of the evidence in the claims file, writing a new decision, and sending it to the claimant—even if the veteran intended the new evidence to be reviewed by the Board of Veterans' Appeals in the first instance. The system should be streamlined to avoid unnecessary and repetitive decisionmaking through a rule requiring VA to provide the claimant an opportunity to choose in writing whether the claimant wants the RO or the BVA to consider the new evidence in the first instance.

Other streamlining ideas that deserve a fair hearing are:

1. Permit appellants the option to either appeal to the Board of Veterans' Appeals or appeal directly to the Court of Appeals for Veterans Claims (AVC) after a Decision Review Officer decision.
2. Reduce the percentage evaluations under any DC to fewer levels than currently exist (but not eliminating a zero percent evaluation);
3. Limit the number of decisions (or set a time certain) in which a RO can render decisions prior to the time a case must be submitted to the BVA; and
4. Limit the number of claimants any one advocate can represent at any one time.

Thank you for permitting NVLSP to testify on such an important issue.

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**Prepared Statement of Kathryn A. Witt Co-Chair,  
Government Relations Committee, Gold Star Wives of America, Inc.**

*“With malice toward none; with charity for all; with firmness in the right, as God gives us to see right, let us strive to finish the work we are in; to bind up the Nation’s wounds, to care for him who has borne the battle, his widow and his orphan.”*  
... President Abraham Lincoln, Second Inaugural Address, March 4, 1865

Thank you for inviting Gold Star Wives of America (GSW) to participate in this Hearing.

Gold Star Wives is a congressionally chartered Veterans Service Organization for the surviving spouses of military servicemembers who died on active duty or as the result of a service-connected illness or injury.

I would like to share some of the difficulties that surviving spouses encounter due to the mishandling of documents at the Department of Veterans Affairs (VA).

The VA employees who answer the phones frequently have little or no knowledge or information about survivor benefits, and they tend to give inappropriate or incorrect answers to questions. Due to the lack of appropriate responses survivors are deprived of the benefits due to them or do not receive those benefits for several years.

GSW met with Secretary Peake last year and discussed the problems our members were having with obtaining information about benefits and with claims processing. Secretary Peake arranged to have all survivor claims processed through the three VA pension offices starting sometime this year. This will allow the VA personnel working in those offices to develop knowledge and expertise about survivor benefits and claims, and therefore process them in a timely, efficient manner. GSW is very grateful to Secretary Peake for this initiative. We think it will solve many of the problems with claims and information concerning VA survivor benefits.

We are also very grateful to Congress for approving the Office of Survivors Assistance at the VA. Linda Piquet, the Acting Director, has already instituted several initiatives to assist survivors. Although this office does not process claims, Linda has been most helpful when problems do occur.

**Claims Processing:**

We have had numerous complaints that surviving spouses have submitted claims for Dependency and Indemnity Compensation (DIC) or claims for money that was due to their deceased spouse. When they call to check on the status of the claim, they are often told that the VA has no record of their claim, and that they should resubmit their paperwork.

I think that much of the VA claims backlog is due to resubmitting and appealing claims that were lost or improperly processed.

One of our members had to submit documentation to the VA three times to prove that she was married to her husband and that they had three children. Another member has four different appeals pending; two of those appeals were submitted twice because the VA had no record of receiving them the first time.

The delays in processing claims for DIC often leave the survivors without income and, in some cases, destitute.

Many of our widows are eligible for ChampVA, the VA's health insurance program. Several of our members have told me that it sometimes takes 9 months or more to process a claim for ChampVA.

One widow told me that her claim for ChampVA including the documents she provided was shredded and that she was without health insurance for over a month. Several of her health insurance claims were rejected during that time.

Claims for ChampVA need to be processed expeditiously. No one should be without health insurance coverage for any length of time.

**Recommendations:**

The VA needs a computer system that scans in the claim and the backup documents provided by the veteran or survivor. This system could then generate a claim number and date on a sheet of paper so that the original documents and claim number could be returned to the veteran or survivor. This would allow the veteran or survivor to call and refer to a specific claim number when they call to check on the status of the claim. This claim should then be cross-indexed with the veteran's name and Social Security number so that any pertinent information and documents already in the VA computer systems could be readily retrieved. Such a system would preclude the need to submit documents such as marriage certificates and birth certificates numerous times.

Such a scanning system could be used as a front end to a computer system that could process simple, straightforward claims such as claims for ChampVA. These claims could then be reviewed by a claims analyst to ensure that all the necessary information and documentation is included and then be completely processed by a computer program.

A computer program to process simple, straightforward claims such as ChampVA claims could be developed quickly and then modules added to the computer program to process claims that are more complex.

The VA backlog of claims would be significantly reduced if claims could be properly logged-in and tracked and the need to submit duplicate and triplicate claims submission eliminated.

We also receive many complaints that claims must be resubmitted or appealed because they were not properly processed the first time. Processing claims properly the first time would also help to reduce the VA backlog significantly.

**Itemized Vouchers:**

Another significant problem with VA claims processing occurs when a veteran or survivor receives a payment with no itemized voucher accompanying the payment. Some people have several claims pending; without an itemized voucher, they have no way of knowing the purpose of that particular payment, how the payment was calculated or if the payment is for the correct amount.

**Recommendation:**

I recommend that itemized vouchers that explaining the purpose of the payment and how the payment was calculated accompany all payments from the VA with the exception of routine monthly payments.

**Last month of VA Compensation:**

We have recently had a much-publicized problem with a "computer glitch" that caused the last month of the VA Compensation to be retrieved from a deceased veteran's bank account and never returned to the surviving spouse. This happened in spite of a law that specified that the last VA Compensation payment would not be retrieved.

A new widow recently told me that the VA recouped the last month of pay and then returned it later after her claims were processed. Even this retrieve and return process causes great financial distress for many surviving spouses.

Taking the last month of VA Compensation directly out of a veteran's bank account causes great financial hardship to the survivors and in many cases leaves them virtually destitute. This is especially true if the money has already been used to pay the monthly bills. Checks the veteran or surviving spouse have written bounce and the bank then assesses numerous fees.

In many cases it leaves the survivors totally without funds.

**Recommendation:**

After my husband died, Social Security contacted me by phone and asked me to have the bank return his last month's Social Security payment. If it is necessary to retrieve funds from a veteran or survivor, I believe that this system is far more considerate of the survivors than directly debiting their bank account for money that may or may not be there.

Thank you for your attention.

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**Prepared Statement of Geneva Moore, Senior Veterans Service  
Representative, Veterans Benefits Administration Regional Office,  
Winston-Salem, NC, on behalf of the American Federation of  
Government Employees, AFL-CIO**

Dear Chairmen and Members of the Subcommittees:

The American Federation of Government Employees, AFL-CIO (AFGE), which represents more than 600,000 Federal employees who serve the American people across the Nation and around the world, including over 160,000 employees in the Department of Veterans Affairs (VA), is honored to testify today regarding the issues of document tampering and mishandling in the Veterans Benefits Administration (VBA).

As the labor organization that represents the vast majority of VBA employees, AFGE has a unique ability to offer the insights of the front-line employees who directly process veterans' claims and handle their claims files, personal documents and medical records. It was very heartening when Secretary Shinseki recognized the VA workforce in his recent testimony before the full Committee as "an immediate and constant source of pride as they demonstrate their dedication to our mission, their devotion to our clients, and their willingness to continue to serve something larger than self."

We are equally appreciative that the House Committee on Veterans' Affairs and the Subcommittees holding this hearing regularly seek AFGE's input on pressing veterans' issues.



First and foremost, **AFGE is firmly committed to working with lawmakers and VBA to eliminate document shredding, tampering and other mis-handling.** AFGE and all its members, including the large number of VBA employees who have also served in the military, are completely ready, willing and able to help develop solutions that protect veterans' files and documents without adversely impacting the quality or timeliness of the claims process.

#### **DOCUMENT SHREDDING**

AFGE's unequivocal position is that *improper shredding is totally unacceptable.* At the same time, making a veteran wait over 6 months for his or her claim to be processed also is unacceptable. We believe that VBA could have struck a better balance between these two if it had consulted with front-line employees and their representatives prior to implementing its shredding policy. AFGE was only informed of the new policy *after implementation* and at that point was only able to negotiate a very limited memorandum of understanding with management.

AFGE has come before you on a number of occasions to convey our members' frustration at the lack of new employee and current employee training that would help them process claims accurately while meeting management's production quotas. Here too, the employees wanted training to help them fully comply with the forty plus provisions in the new National Code of Behavior. But when management asked them to sign this document without providing any training, they signed because "[a]ny refusal to sign the VA National Rules of Behavior may have an adverse impact on [their] employment with the Department." (Section 1(i)).

What was the effect of lack of training on the new policies? First, employees are not sure what to shred and what to keep in the file under these new policies. Employees have the incentive to keep extraneous materials in the file rather than expose themselves to the risk of possible discipline for discarding the wrong materials. As a result, the next person, for example the RVSr getting the file from the VSR or the supervisor performing quality control, has to review a much thicker file containing more extraneous pages. Longer review time means longer processing time which translates to larger backlogs.

We also question whether all recently hired Records Management Officers (RMO) received adequate and consistent training at the RO level. Our members report that RMOs have required them to spend unnecessary time going through certain procedures when employees were already in compliance. Here too, a joint labor-management team would have produced a better training program.

The current work credit system is further impeding the effectiveness of the new shredding policies. Employees are reluctant to comb through their files for shreddable documents as that slows down their production. The current work credit system does not credit employees for the time required to stop case production in order to carry out mandatory daily reviews of shreddable materials.

Consultation with front-line employees and their representatives would have also produced efficiencies at the outset as to how employees sort through their files. For example, initially, the employee had to annotate each piece of paper to be shredded with a handwritten explanation and his or her initials. Some, but not all offices, report that new methods are being implemented to speed up this process, such as the use of cover sheets and page stamps. These efficiencies should be encouraged and made uniform across ROs.

Fortunately, Congress has provided VBA with an excellent tool for improving its mentoring process and work management and work credit systems. The Disability Claims Modernization Act (P.L.110-389), requires the VA to undertake studies of these two systems, and requires managers to pass the same skills certification tests as front-line employees. **AFGE urges the Subcommittees to ensure that front-line employees and their representatives have the opportunity for meaningful input into the studies mandated by this valuable new law. Also, we urge VBA to restore labor-management collaboration on the skills certification testing process.** Only last year, IBM conducted a study of the claims process for VBA without consulting a single frontline employee.

Finally, with regard to shredding, some critics assert that VBA employees discard and mishandle veterans' claims files because they do not see a real person behind the file. In fact, nothing could be further from the truth. It is precisely the veteran that the employees have in mind when they work through lunch and breaks, come in early and leave late, and study in the evening to do their jobs better. These employees want more training and more credit for quality, not just quantity, because they want the best for the claimant behind that claim number. As AFGE has testified in the past, the VBA workforce experiences tremendous frustration with the chronic obstacles they face in trying to process these claims in a timely and accurate manner.

***Backdating of claims***

Unfortunately, backdating of VBA claims is not a new phenomenon. Some of our members report receiving “backdating” instructions from managers in years past. **AFGE is solidly committed to working with Congress and VBA to get to the root cause of the backdating problem and the perverse incentives in the current system that lead to this practice.** Here too, the studies of the work credit and work management systems mandated by P.L.110–389 will provide essential information to address this problem.

Backdating may also be a byproduct of the practice of submitting informal claims prior to submitting formal claims. In order to avoid two different “end product” dates, which affects station timeliness numbers, there is an incentive to choose the later date of the formal claim, which in turn, may reduce the veteran’s retroactive payment. Better technology (including a paperless system) would help VBA keep the two claims properly associated.

***Misplaced Files***

Clearly, if the disability claims process were already paperless, many of the problems being considered at this hearing today would no longer exist, including fewer misplaced files. The input of frontline employees and their representatives would ensure a smoother, more effective transformation to a paperless system.

A paperless system also would enable VBA to keep the entire file intact when additional medical evidence or other documentation comes into the RO at a later date because of delays in getting private physician records or because the claimant has new medical evidence of a worsening medical condition.

Multiple file claims also present a problem: Sometimes the RVSR (who is required to review the full file) is only given the most recent file of a multiple file claim.

In the short term, small IT fixes such as an automatic reminder system would enable VBA to keep better track of files that move between ROs for brokering or to the Appeals Management Center, or are temporarily transferred to the treating physician or the C&P examiner. Our members report that brokering between ROs is especially likely to result in lost or misplaced evidence and claims and delayed association of evidence with claims files.

AFGE urges the Subcommittees to further investigate the efficacy of VBA’s brokering policies, and solicit the input of frontline employees and their representatives. There is no reason for programs which poorly serve veterans to continue through inertia. VBA should continue policies that are proven to work, and eliminate those which are not.

VBA’s policy of brokering cases from one RO to another also diminishes frontline employees’ investment in their work product, since such an “assembly line” approach to developing and adjudicating claims shifts the responsibility for mistakes made by personnel at one RO to those at another RO.

AFGE is also concerned about the impact of a new brokering process using newly created Appeals Resource Centers (ARC) (as detailed in VBA Fast Letter 09–06). This initiative will significantly increase the number of cases in transit, further increasing the risk of file and document misplacement and loss. Notably, VBA management denied the existence of the ARC initiative to AFGE until November of 2008, acknowledging its existence for the first time in the new shredding policy. AFGE’s requests for briefing on this initiative have been denied to date.

***Other Comments***

With regard to the problem of the widow being denied the full “month of death” check, our members have not reported any management pressures to deviate from the requirement under current law that widows receive the full monthly benefit.

***Conclusion***

Almost every law firm in this Nation, no matter how small, utilizes simple off-the-shelf, out-of-the-box software to manage and track their docket. Clearly, a similar, user friendly electronic tracking system is within VBA’s reach.

AFGE extends its gratitude to the Subcommittees for soliciting our views on these challenging issues. You have AFGE’s full commitment to work with you and VBA to identify the root causes of these problems and work toward solutions that best serve the needs of our veterans.



**Prepared Statement of Belinda J. Finn, Assistant Inspector General  
for Auditing, Office of Inspector General,  
U.S. Department of Veterans Affairs**

## **INTRODUCTION**

Mr. Chairmen and Members of the Subcommittees, thank you for the opportunity to address important issues associated with the integrity and timeliness of the Veterans Benefits Administration's (VBA's) handling and processing of compensation claims. Accompanying me is Mr. James J. O'Neill, Assistant Inspector General for Investigations. We will discuss the vulnerability of veterans' claim records and documentation to improper destruction and the accuracy of VBA regional office (VARO) compensation and pension (C&P) benefit claim dates. In both of these areas, VBA lacked adequate management controls. The absence of controls to protect claim documentation resulted in unnecessary delays in providing some veterans' benefits. Our review of control deficiencies associated with the accuracy of claim dates did not identify any veterans or their beneficiaries who received incorrect or delayed benefit payments. However, the deficiencies could cause VAROs to report inaccurate claim-processing times to stakeholders such as veterans and Congress.

### **Improper Shredding of Claim-Related Documents**

During our ongoing audit of VBA claim-related mail processing, the Office of Inspector General (OIG) discovered 132 claim-related documents needed to support and facilitate the processing of claims that personnel inappropriately discarded in 37 shred bins located at VAROs in Detroit, MI; Waco, TX; St. Louis, MO; and St. Petersburg, FL. After we briefed Veterans Affairs (VA) and VBA senior officials regarding this discovery, VBA searched shred bins in all of its regional offices and the St. Louis, MO Records Management Center (RMC) and found 474 additional claim-related documents in 41 of the 58 locations.

Document shredding services are generally part of routine records management functions performed in VAROs. Shred bins were located in different work areas throughout the four VAROs visited by our auditors, and allowed employees to deposit documents no longer considered necessary or redundant but containing confidential information that prevented the employees from depositing them in open trash collection bins. Three of the four VAROs (Detroit, Waco, and St. Petersburg) used locked shred bins, while one (St. Louis) used unlocked shred bins. Contractors performed shredding either weekly or bi-weekly onsite at three of the VAROs (Detroit, Waco, and St. Petersburg) and offsite at the remaining VARO (St. Louis).

***Claim-Related Documents Found in VARO Shred Bins.*** This issue came to our attention at VARO Detroit in September 2008 when an employee told our auditors that claim-related documents might have been inappropriately discarded in shred bins. On hearing this, the OIG audit team reviewed the entire contents of 18 shred bins at that VARO. We identified 80 documents that were inappropriately discarded—5 documents that could affect claimants' benefits and 75 documents that would not have affected benefits but should have been retained in claim files.

After finding the claim-related documents at VARO Detroit, we expanded our review of shred bins and found an additional 49 documents at 3 other VAROs. These included 31 documents that could affect claimants' benefits and 18 documents that would not have affected benefits but should have been in claim files.

The OIG reported preliminary findings to Congress in separate white papers issued in October and December 2008. At that time, we reported identifying 129 claim-related documents inappropriately discarded in bins for shredding, of which 36 documents could have affected the benefits of 35 claimants. While working with VARO Detroit officials since that time, we identified an additional nine documents that could have affected claimant benefits. At 4 VAROs, we recovered a total of 132 documents from examined shred bins, of which 45 documents could have affected claim benefits and 87 other documents, such as death certificates, correspondence from the veterans, and award documents that would not have affected claims but should have been retained in claims files. (See Table 1.)

**Table 1. Claim-Related Documents Found in Shred Bins**

Documents Identified in Shred Bins	VAROs				
	Detroit	St. Petersburg	St. Louis	Waco	TOTAL
<b>Documents Affecting Benefits</b>					
Original Claims	2	4	0	0	<b>6</b>
Reopened Claims	1	10	2	0	<b>13</b>
Burial Benefits	0	4	0	0	<b>4</b>
Dependency Claims	1	1	1	0	<b>3</b>
Death Benefits	0	1	0	0	<b>1</b>
Informal Claims	4	0	0	0	<b>4</b>
Miscellaneous	6	6	0	2	<b>14</b>
<b>Subtotal</b>	<b>14</b>	<b>26</b>	<b>3</b>	<b>2</b>	<b>45</b>
<b>Documents Not Affecting Benefits</b>	<b>69</b>	<b>12</b>	<b>3</b>	<b>3</b>	<b>87</b>
<b>TOTALS</b>	<b>83</b>	<b>38</b>	<b>6</b>	<b>5</b>	<b>132</b>

The 45 documents fell into the following categories:

- **Original claims for benefits (6).** We identified six claims, including two from Global War on Terrorism veterans, which were required to have received priority processing. We found no record of receipt and VARO managers confirmed that the claims were never established.
- **Reopened claims for benefits (13).** These claims represented requests for increased compensation, new entitlement to pension benefits, or entitlement to service connection for additional disabilities. For 10 of the 13 claims, the VARO had no record of receipt or action to establish a claim. Although the VARO had established claims in the remaining three cases, the private medical evidence submitted by the claimant was discarded in two of them, and no copies were in the official records. In the third case, the VARO had established a claim with a later date based on a telephone inquiry.
- **Claims for burial benefits (4).** The VARO had no record documenting receipt or processing of these claims for reimbursement of burial expenses.
- **Dependency claims (3).** These claims included two requests for benefits on behalf of claimants' children and one application to add a dependent to an existing claim. The VARO had no record of receipt or action on the claim.
- **Claim for death benefits (1).** The VARO had no record of receipt or action upon this claim for death benefits by a surviving spouse.
- **Informal claims (4).** An informal claim preserves the claimant's date of eligibility for benefits for the period of 1 year, indicating a claimant's intent to apply for one or more benefits. The discarded informal claims identified the date the VARO received the document, which is necessary to ensure the correct date of eligibility. However, the VAROs had no record of receipt and control of these documents. For example, a veteran did not receive his full entitlement of disability benefits because a VARO had not taken any action on an informal claim received prior to discarding the claim in a VARO shred bin. The VARO received the veteran's informal claim on January 31, 2008. In February 2008, the VARO received the veteran's formal claim and established the claim in the SHARE system, an automated computer system used by VBA to establish and manage pending issue claim data, with a February 12, 2008, date of claim. The VARO awarded benefits to the veteran based on the February 12, 2008, date of claim with a payment date of March 1, 2008. The VARO was required to have awarded benefits based on a January 31, 2008, date of claim with a payment date of February 1, 2008. As a result, the veteran did not receive the entitled disability benefit payment of \$117 for the month of February 2008.
- **Various documents (14).** These documents included write-outs and returned mail that the VAROs had not processed and could affect claimants' benefits. A write-out is notification to VA that a discrepancy exists between a veteran's computer record and the amount of monthly benefits the veteran is receiving. VARO employee action is required to reconcile the discrepancy.

When we completed our reviews, we worked with VARO officials and confirmed that the 45 claim-related documents found in the bins could have affected benefits and copies of the documents were not maintained in claim files. We returned the identified documents to the VAROs so that appropriate actions could be taken on these claims and the documents could be placed in official records.

#### ***OIG Criminal Investigation***

Special Agents assigned to VA OIG conducted investigations of improperly shredded claims-related documents at the following seven VAROs: New York, NY; Cleveland, OH; St. Louis, MO; Pittsburgh, PA; Columbia, SC; Detroit, MI; and St. Petersburg, FL. To avoid disclosing information protected by the Privacy Act, we will not associate our findings with specific VAROs because the employees subjected to administrative actions as a result of their involvement in shredding would be identifiable to their co-workers.

At one VARO, an employee was observed on two occasions by two different employees placing claim-related documents in a shred bin. These documents were recovered and determined to be inappropriate for shredding. When interviewed, this employee did not dispute the accuracy of the witnesses' observations but claimed that prescribed medication rendered him extremely disoriented. He said he was unaware of placing claim-related documents in shred bins on either occasion. After confirming that the employee is prescribed medication, we presented the facts of this case to an Assistant U.S. Attorney (AUSA), who declined prosecution for violations of 18 USC 2071 (Concealment, Removal, or Mutilation Generally) because of the difficulty in establishing criminal intent. VA subsequently removed this employee from Government service.

At a second VARO, a VBA review of all documents thought to be staged for shredding revealed that approximately 90 percent of claim-related documents were discovered in a shred box under the desk of one employee. When interviewed, the employee denied intentionally placing the above documents in his shred box. We terminated the interview when the employee exercised his right to legal representation. An AUSA declined prosecution for violations of 18 USC 2071 in lieu of administrative remedies. VA subsequently removed this employee from Government service.

At a third VARO, management learned in October 2008 that an employee had been discovered inappropriately shredding documents approximately 4 months earlier. At that time, he told prior management that a supervisor had instructed him to shred these documents. This employee and the supervisor subsequently received verbal counseling. VBA's investigation in October identified another employee who said this supervisor, prior to the incident described above, also had instructed him to shred documents that he thought should not be shredded. We re-interviewed all of the parties involved in this issue. The supervisor, who was on administrative leave as a result of involvement in another incident, denied instructing either of the above employees to shred documents that should not have been shredded. An AUSA declined prosecution for violations of 18 USC 2071 in lieu of administrative remedies. VA subsequently removed this employee from Government service.

At a fourth VARO, in response to discoveries made by our audit staff during an unannounced inspection, we opened a criminal investigation into inappropriate shredding of claim-related documents which revealed that the majority of documents discovered by the auditors had been assigned to two employees for processing. Both employees denied placing these documents in a shred bin and offered to take polygraphs. Since there was handwritten material on one of the documents, we obtained exemplars from both employees. Our document analyst concluded that one of these employees had probably written the questioned material. The paucity of this material was the only reason the analyst had to qualify her opinion; there were no differences identified during the forensic examination between the known writing of the employee and the questioned material. When confronted with this forensic evidence, the employee continued to deny being the author of the questioned material and reasserted non-involvement in inappropriate shredding. The second employee also claimed no knowledge of how the documents found their way into the shred bin, but claimed that the other employee processed most of the paperwork in their unit. After we arranged for another law enforcement agency to administer the polygraphs, both employees declined to be polygraphed. An AUSA declined prosecution for violations of 18 USC 2071 and 18 USC 1001 (False Statements) in lieu of administrative remedies. On February 17, 2009, we provided VBA a report of our investigation so a decision can be made if administrative action will be taken against one or both of these employees.

The investigations conducted at the other three VAROs did not identify anyone who willfully and knowingly shredded claim-related documents inappropriately.

**Response by VA and VBA.** On October 14, 2008, we briefed the former Secretary of Veterans Affairs, the Under Secretary for Benefits, and other senior VA and VBA officials concerning the documents found in shred bins. Immediately following this briefing, the Under Secretary for Benefits directed every VARO to suspend all document shredding. In addition, the Under Secretary for Benefits instructed every VARO Director to review and inventory all contents in shred bins, report all claim-related mail or original supporting documents found in shred bins, and certify that documentation contained in their shred bins was not inappropriately destroyed.

VBA reported to the OIG that their inventories of VARO shred bins nationwide located 474 documents affecting benefit entitlements and 8 documents that were required to have been returned to claimants at 41 locations nationwide. Of the 57 VAROs, 40 (71 percent) reported that shred bins included documents affecting benefit entitlements. VBA's RMC in St. Louis also reported that six documents were inappropriately discarded. Of the 474 documents, 242 (52 percent) were at 3 VAROs—Columbia, SC (95 documents); St. Louis, MO (94 documents); and Cleveland, OH (53 documents). The remaining 232 documents were at 37 other VAROs and the RMC, with the number of documents in shred bins ranging from 1 to 95.

In November 2008, VBA issued a new and sweeping policy regarding procedures for the maintenance, review, and appropriate destruction of veterans' paper records located in all VBA facilities and worksites. We have not yet reviewed the implementation or effectiveness of this policy, but we plan to review compliance with the policy during future audits and reviews.

**Extent of Inappropriate Claim-Related Shredding Cannot Be Determined.** We cannot determine how long this problem may have been occurring at VAROs or how many documents were potentially shredded. The bins our auditors reviewed contained 14 or fewer days of material. Further, we cannot project our findings or know whether the findings represent the typical contents for each shred bin.

**Lack of Controls Is a Contributing Factor.** At the time of our audit, VBA had no requirement for any supervisor or other official to review documents placed in the shred bins. Therefore, an employee could easily dispose of documents, either unintentionally or purposely.

VBA officials also said that some VAROs held "mail amnesty" periods to encourage employees to turn in unprocessed mail and other documents without penalty or repercussions. During an amnesty period in July 2007 at VARO Detroit, VARO employees turned in almost 16,000 pieces of unprocessed mail including 700 claims and 2,700 medical records and/or pieces of medical information. The VARO determined that none of these claims or documents were in VBA information systems or associated claim files. VBA management told us of similar amnesties at other VAROs, such as an amnesty at VARO New York in December 2008 that recovered 717 documents from VARO employees.

We consider any loss of claim-related documents to be unacceptable. These actions result in an inaccurate or incomplete record of activities needed to process a veteran's claim, delay claims processing, and potentially result in denial, under, or overpayment of benefits. Further, this situation increases the distrust that some veterans and beneficiaries already have in VA's ability to adequately protect documents and provide timely benefits.

We believe that, taken together, this information indicates that claim-related mail processing and the protection of records submitted by veterans in support of claims are a high-risk area for VBA. Had we not discovered this situation, some veterans' claims may have languished with no action or been inappropriately denied. VBA took immediate actions to address the shredding problem. We will monitor these controls at the VAROs to ensure that veterans' claims and records are promptly processed and appropriately protected.

#### **Inaccurate Compensation and Pension Benefit Claim Receipt Dates**

In October 2008, at the request of the Ranking Member of the HVAC, Steve Buyer, we initiated a review to evaluate the accuracy of VARO C&P benefit claim receipt dates. VARO staffs are required to document claim receipt dates in claim folders and an automated computer system named SHARE. When VAROs use inaccurate claim receipt dates as the effective dates of awards, payments to veterans or their beneficiaries can potentially be delayed. Also, since VBA uses claim receipt and completion dates to measure claim processing timeliness, inaccurate receipt dates can cause reported claim-processing times to be incorrect.

Congressman Buyer requested our review after VBA reported the results of its August 2008 Administrative Investigation Board (AIB) investigation of claim receipt dates at VARO New York. During the AIB, staff obtained sworn testimony from 34

employees and C&P Service staff reviewed receipt dates for 390 claims. The investigation concluded that VARO management instructed staff to intentionally establish erroneous claim receipt dates and staff did so for 220 (56 percent) of 390 claims reviewed and had been establishing erroneous dates for a number of years. However, VBA said that the errors did not cause any veterans or their beneficiaries to receive incorrect or delayed benefit payments. Subsequently, VBA has held several VARO New York managers accountable for intentionally establishing erroneous claim receipt dates.

We evaluated a statistical sample of 1,515 total claims at VAROs Albuquerque, Boston, San Diego, and Winston-Salem to determine if inaccurate claim receipt dates caused veterans or their beneficiaries to receive incorrect benefit payments and if inaccurate claim receipt dates caused VBA to report incorrect claim-processing times to stakeholders. We found that the claim receipt dates for the majority of the 94,920 claims completed at the 4 VAROs during fiscal year (FY) 2008 were accurate. We projected that 88,639 (93.4 percent) claim receipt dates were accurate, and 4,520 (4.7 percent) were inaccurate. In addition, we also projected that the 4 VAROs had not documented a receipt date for the remaining 1,761 (1.9 percent) claims and could not support the dates recorded in SHARE with receipt dates in claims folders.

While we found some inaccurate claim receipt dates at all four VAROs, none of the VAROs' inaccuracy rates approached the 56-percent rate VBA reported for VARO New York. VARO Boston had the highest inaccuracy rate of 10 percent. Inaccuracy rates were 5 percent for VARO Albuquerque, 4 percent for VARO Winston-Salem, and 3 percent for VARO San Diego. The calculations of inaccurate dates do not include the 1,761 undocumented dates. Therefore, the actual rates of inaccurate claim dates could be higher.

The errors we reviewed did not cause any veterans or their beneficiaries to receive incorrect or delayed benefit payments. The payments were correct because VARO personnel used the correct claim receipt dates, which staff documented in claims folders, when establishing the effective dates of benefit awards in the C&P Payment Master Records system instead of relying on dates in SHARE. Interviews of VARO staff and reviews of claims folders indicated that the inaccurate dates were mostly unintentional errors. Because the inaccurate receipt dates were both before and after the correct dates, the inaccuracies did not significantly affect most of the four VAROs' reported FY 2008 average claim-processing times. The only exception was VARO Boston, where the errors caused the understatement of projected average processing times by 4 days (176 days using recorded dates and 180 days using actual dates).

Our results indicated that the claim date inaccuracies were mostly unintentional errors. Only 1 of the 1,515 claims folders included evidence of an intentional inaccurate claim date and only one VARO employee stated that an inaccurate date was intentional. We concluded that the timing of the inaccurate claim dates also indicated that the inaccuracies were unintentional because the inaccurate dates were occurring both before and after the correct dates. Inaccurate receipt dates that are *after* actual receipt dates will result in lower claim-processing times and indicate better performance. Inaccurate receipt dates that are *before* actual receipt dates will result in higher claim-processing times and indicate poorer performance. Therefore, if VAROs intentionally manipulated claim-processing times to indicate better performance, they would have consistently recorded SHARE receipt dates that were *after* actual receipt dates.

Our review indicated that the majority of the inaccurate claim receipt dates were unintentional errors. For 109 (99.1 percent) of the 110 inaccurate claim receipt dates, the timing of the dates, our claim folder reviews, and interviews of staff indicated the VARO personnel probably entered the inaccurate dates in SHARE unintentionally. The following case is an example of how the evidence indicated that the error was most likely unintentional.

- VARO Winston-Salem received a veteran's statement in support of a claim for an increased disability rating because of a lower back condition. The claim receipt date documented in the claim folder was September 28, 2007, which was the receipt date the VARO stamped on the document. However, the September 8, 2007, receipt date reported in SHARE was 20 days before the date documented in the claim folder. Our review of the claim folder and interviews of VARO staff found no evidence that the VARO intentionally reported the inaccurate date in SHARE. Therefore, we concluded that the inaccurate date was most likely the result of the Veterans Service Representative (VSR) erroneously entering an "8" instead of a "28" when entering the date in SHARE. The incorrect claim receipt date did not affect the veteran's benefits.

**VARO Boston Employee Intentionally Recorded Inaccurate Dates.** We found intentional recording of inaccurate dates at one location. During our visit to the Boston VARO, a Senior Veterans Service Representative (SVSR) told us that he entered an inaccurate receipt date in SHARE. In this case, VARO Boston received a letter from a veteran claiming service-connection disability benefits for sleep deprivation. The VARO Triage Team correctly stamped September 24, 2007, as the receipt date on the back of the veteran's letter. On the last page of the letter, we found an annotation with no initials that established the receipt date as January 22, 2008. The date in SHARE was the incorrect date of January 22, 2008, which was 124 days after the actual receipt date of September 24, 2007. The incorrect claim receipt date did not affect the veteran's benefits, but it did contribute to the VARO Boston 4-day understatement of average claim processing time previously discussed.

The SVSR told us that he entered inaccurate receipt dates in SHARE because he had a "general impression" of responsibility to help the Veterans Service Center (VSC) achieve the "goal to make numbers meet." He stated that he entered receipt dates in SHARE that were within 30 days of the input date instead of the actual receipt date for claims over 1 year old. For claims that were between 7 and 30 days old, he entered dates in SHARE that were within 7 days of the input date. The employee also said he knew of no other supervisors entering inaccurate dates, he was unaware of any other supervisor that instructed staff to do this, and VARO management did not direct him to instruct staff to enter inaccurate claim receipt dates in SHARE. The SVSR retired the end of January 2009. The VARO Director is conducting a comprehensive investigation to assess the extent of this SVSR's actions.

**VARO Documentation of Claim Receipt Dates Needs Improvement.** We found that VAROs needed to improve the documentation of claim receipt dates in claims folders. We projected that for 1,761 (1.9 percent) of the 94,920 claims the 4 VAROs completed during FY 2008, claim folders did not include sufficient documentation to determine if SHARE claim receipt dates were accurate. VARO managers could not explain why staff had not documented SHARE receipt dates in the sampled claims folders. Because we could not confirm the accuracy of the receipt dates for these claims, we could not determine if veterans or their beneficiaries received correct benefit payments or if there was any effect on the accuracy of reported claim-processing times.

**VBA Needs To Take Action.** To help ensure the accuracy of reported claim-processing times, which VBA managers and stakeholders use to measure and monitor VARO performance, VBA needs to better monitor claim receipt dates and documentation. In November 2008, VBA's Quality Assurance Systematic Technical Accuracy Review (STAR) began evaluating the accuracy of receipt dates during their regular monthly VARO reviews.

However, we recommended that VBA further improve the reporting reliability of claim-processing times by implementing two actions. The first action is to establish claim receipt date accuracy goals, which will improve transparency and accountability for VARO performance. VBA has used goals to help improve VARO performance in other areas such as accuracy rates for pension authorizations and burial claims processed. The second action is to require VAROs to perform Systematic Analysis of Operations' (SAOs) of claim receipt date accuracy and documentation. VAROs routinely use SAOs as a self-audit technique to improve various aspects of operations. Performing specific SAOs of claim receipt dates and documentation will help ensure VARO and VBA managers have accurate and reliable claim-processing time data for their decisionmaking purposes. We also recommended the VARO Boston Director identify any other claims where the SVSR intentionally entered inaccurate receipt dates in SHARE and ensure benefit payments related to these claims are correct.

**VBA Response.** VBA reported that claim date accuracy reviews will be a permanent addition to the STAR program to ensure continued monitoring. VBA will collect and study accuracy data from these reviews and establish a sound goal by June 1, 2009. By April 1, 2009, C&P Service will revise its policies to add the requirement for validating the accuracy of claim dates to the existing "Quality of Control Actions" SAO. In addition, VARO Boston will examine claims established by the SVSR who intentionally entered the incorrect date of receipt identified by OIG and correct dates to ensure benefit payments are accurate. The VARO Director is conducting a comprehensive investigation to assess the extent of this SVSR's actions.

**Ongoing OIG Oversight Work.** In addition to the two reviews already discussed, the OIG has been aggressively increasing its presence in, and oversight of, VBA's regional offices. In addition to our audit of VBA claim-related mail and mail-room operations and our review of claim-date accuracy, we are also auditing two of VBA's quality assurance programs. These include VBA's "Site Visit" program that



reviews C&P functions, and the Systematic Technical Accuracy Review program, which measures accuracy of claim processing decisions made in all regional offices. We also performed a special review of management controls to prevent fraudulent payments for retroactive benefits of \$25,000 and above. This week we are also initiating an audit to evaluate the effectiveness of VBA's Control of Veterans Record System, which tracks the location of claims folders within VBA offices. We will provide reports on these reviews upon completion. In May 2008, the OIG issued a report on the impact of VBA's hiring initiative on reducing the claims backlog and we are planning to begin another review to examine the effectiveness of VBA's efforts integrating new staff into their workforce. OIG teams conducted evaluations onsite at 16 VAROs during 2008 (we visited 3 VAROs twice on 2 different reviews).

In addition, we are staffing the Benefits Inspection Division to provide continuous oversight of VARO operations nationwide. The inspections will evaluate how well VAROs are accomplishing their mission of providing accurate and timely benefits and services to veterans and their dependents. The goal of the inspection program is to complete at least 12 inspections each fiscal year, allowing coverage of all 57 VA Regional Offices within a 5-year period.

Mr. Chairmen, that concludes our remarks and we thank you for the opportunity to discuss these important issues and your continued support. We would be pleased to answer any questions that you or other Members of the Subcommittee may have.

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

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you today to discuss the critical issue of proper handling of veterans' claims documents at Department of Veterans Affairs (VA) Regional Offices (ROs), as well as issues involving the proper date of claim for workload and performance tracking. I will also discuss recent changes to month-of-death payment processing.

I am accompanied by Ms. Diana Rubens, Associate Deputy Under Secretary for Field Operations, and Mr. Bradley Mayes, Director of the Compensation and Pension Service.

I would like to begin by outlining the sequence of events surrounding the discovery of some claims and other documents of evidentiary value in the shred bins of some of our ROs and the steps we have taken to address the situation and protect filing dates for veterans and other claimants whose documents may have been improperly shredded.

**Audit by the Office of the Inspector General**

On August 20, 2008, the VA Office of the Inspector General (OIG) initiated an audit of RO processing of mail that pertains to claims adjudication and general mailroom operations. During the OIG audit, which is still ongoing, the OIG examined the mail-handling activities and triage areas in four ROs: Detroit, St. Louis, Waco, and St. Petersburg. While on-site in Detroit in September, the OIG audit team identified claims-related mail and original supporting documents that were placed in "shred bins" at the ROs, an action that was clearly unauthorized and inappropriate. The OIG informed local officials of the documents and asked for clarification.

On October 14, 2008, the OIG briefed VA leadership on its preliminary findings concerning the improper shredding of claims-related mail and documents at the three ROs because they had not completed work at St. Petersburg. This was the OIG's first contact with VA that specifically dealt with the shredding of claims-related mail and documents. In its review of these four offices, the OIG found 45 documents in shred bins that, if destroyed, could potentially affect a veteran's or other claimant's entitlement to benefits.

**Immediate Actions In Response to the OIG Preliminary Report**

On the same day Veterans Benefits Administration (VBA) leadership was briefed by the OIG, we immediately ordered all ROs, as well as the Appeals Management Center and the Records Management Center, to cease all shredding activities. All facility directors were instructed to relocate all shred bins and shredding equipment to offices occupied by VBA management officials and to review the contents of all shred bins.

The facility directors and their management teams inventoried all claims-related mail or original supporting documents found during this review. This effort identified 474 documents affecting benefit entitlement inappropriately placed in shred

bins for disposal. These 474 documents and the 45 documents identified by the OIG were found at 41 of our 57 regional offices and centers, Appeals Management Center, and Records Management Center. No evidentiary documents were found in shred bins at the remaining 17 ROs. RO Directors certified in writing that no additional claims documents or copies of supporting claims documents were found among the materials in their shred bins.

Collectively, the Columbia, St. Louis, and Cleveland ROs were responsible for more than half of the documents found. Employees at two of the three offices were investigated by VA and OIG for mishandling government documents. As a result of the investigation, an employee was removed from duty at the St. Louis RO on December 8, 2008, and an employee was removed from the Columbia RO on December 12.

All 474 documents found in shred bins were analyzed to determine appropriate action. The documents requiring action were placed under control and processed as a top priority by the RO. As of February 20, 2009, appropriate action on 415 of the 474 documents had been completed. Of the remaining 58 documents, 56 of the associated claims are currently under development and two are ready for decision.

### **8-Point Plan of Action**

In an effort to ensure this situation does not occur again, VBA developed an 8-point plan of action to strengthen our policies and procedures to safeguard veterans' paper records. In developing this plan, we worked closely with representatives of the six major veterans service organizations and received input from House Committee and Subcommittee staffs, as well as the staff of the Senate Veterans' Affairs Committee. This action plan implements tighter controls to protect veterans' applications and claims-related documents and ensures measures are in place to prevent future incidents of employees inappropriately discarding veterans' paperwork.

#### **1. Records Control Team**

VBA created a Records Control Team to revise policies and procedures for the proper handling and shredding of documents. The Team convened the week of October 27, 2008, and provided a draft policy document on November 3, 2008. We continued to refine the policies, after receiving input from veterans service organizations and Congressional staffs through briefings conducted on three occasions. We finalized and implemented the new policies on November 14, 2008.

#### **2. Training**

Even before we finalized our new policies, we provided special training to all VBA employees covering the proper handling and disposal of documents. All ROs certified to their Area Directors that all employees completed the training on November 3, 2008. Additionally, a separate training module on ethics was administered in December 2008 via a national broadcast featuring the Under Secretary for Benefits.

#### **3. Records Management Officers**

To strengthen oversight of our records management activities, our new policies establish a Records Management Officer position at every VBA facility. All facility shredding equipment and operations are now under the strict control of the facility Records Management Officer. Division Records Management Officers were also designated (as a collateral-duty assignment) to assist in carrying out the new policies and procedures. Standardized position descriptions for both positions were developed for nationwide implementation.

#### **4. Two-Person Review of Documents to be Shredded**

Employees are now directed to date and initial all duplicate claims-related documents that have been identified as requiring shredding. The document or documents (including the claims folder, if necessary to establish the appropriateness of the disposal action) must be forwarded to the employee's Decision Review Management Officer for approval. This two-person review is required prior to the destruction of any claims-related document. Any documents deemed by the supervisor inappropriate for shredding will be returned to the employee for inclusion in the claims folder. If this occurs, the supervisor will ensure the employee immediately receives additional training.

#### **5. Individual Employee Shredding Receptacles**

Every employee has a separate receptacle to contain all papers deemed appropriate for shredding. These receptacles are subject to review by supervisory personnel and the facility Records Management Officer.

#### **6. Systematic Analyses of Operations**

All ROs and centers are now required to conduct regular systematic analyses of their records control procedures and activities, including their shredding procedures and controls.

### **7. Site-Visits**

Reviews of records management procedures, including checks of documents identified for shredding, have been integrated into RO oversight visits performed by all Headquarters program offices and area offices. ROs are subject to both announced and unannounced site visits.

### **8. Certification of Full Implementation Before Shredding Resumption**

The moratorium on shredding was lifted on December 31, 2008, after all facility directors certified to their area directors that the new policies have been fully implemented.

### **Special Temporary Procedures for Missing Documents**

We were greatly assisted by the veterans service organizations and Congressional staffs in developing special temporary claims handling procedures for veterans and claimants who assert VA did not process their claims because documents they previously submitted to VA to support a claim for benefits were shredded or otherwise improperly disposed. These special procedures for missing documents were officially released on November 14, 2008. Since November 14, 2008, there have been 335 instances of veterans or beneficiaries contacting VA to inquire about the status of their claims in relation to the shredding of VA documents.

The special procedures consist of three key components:

First, to assist claimants in establishing that an application or other claims document was previously submitted to VA, but was not properly acted upon by VA or retained in the veterans' claim record, VA will process duplicate claims documents and set effective dates for granted claims as though the claim was received on the date asserted by the claimant. These special temporary procedures cover any missing documents originally submitted by a veteran or other claimant during the 18-month period immediately preceding the date VA ceased all shredding activities, or between April 14, 2007 and October 14, 2008.

Second, under these special procedures, VA will accept claims asserting previous submission of documents between April 14, 2007, and October 14, 2008, for 1 year (or from November 17, 2008, the date of public notice of temporary special claims handling procedures, to November 17, 2009).

Third, effective dates prior to April 14, 2007, will be established in accordance with the facts and credible corroborating evidence presented by a veteran, and applicable laws and regulations. Claimants asserting that documents filed before April 14, 2007, are missing will be asked to submit any available evidence supporting the previous submission, such as a date-stamped copy of their claim, a dated transmittal or cover sheet from their representative, or confirmation from a deliverer of mail. We will also take steps to determine whether VA possesses any documentation to support the previous submission.

### **Communicating Our Actions**

I extend my sincere appreciation to the Senate and House Committee staffs and to the veterans service organizations for their input and counsel as we developed our action plan. We will need your continued support and that of the veterans service organizations as we work to ensure anyone potentially affected by this situation is assisted in filing a claim under these special procedures. At the time these new procedures were established, we placed information on our website and provided special training to all of our public contact employees. Our RO directors briefed local veterans service organization representatives and Congressional staffs, so that they could appropriately inform their members and constituents and refer anyone affected by this situation needing assistance.

Veterans who are concerned that VA may not have all of their information are being advised to contact VA on our toll-free number, 1-800-827-1000, or to send an inquiry through *IRIS.VA.GOV*. We electronically track documents for currently pending claims and can verify receipt of documents through our tracking system. If necessary, our representatives will review the veteran's claims file to verify receipt of applications and supporting evidence.

### **Electronic Document Retention and Paperless Claims Processing**

VBA is working in partnership with the Office of Information Technology to implement the Paperless Delivery of Veterans Benefits Initiative. The primary goal of the initiative is to improve service to veterans by transitioning our business model to be less reliant on the acquisition and storage of paper documents, and we are making good progress. As of August, all claims submitted through the Benefits Delivery at Discharge Program are processed in a paperless environment.

VA has contracted with Electronic Data Systems (EDS) to serve as the Lead Systems Integrator (LSI) for this effort. fiscal year 2010 is our target year for release

of the initial hardware and software in support of the large-scale expansion of the paperless initiative. The EDS effort is designed to provide enhanced paperless claims processing capabilities across VA.

For example, these enhanced capabilities will allow veterans to submit benefit applications electronically and eliminate the need for VA to print the form for processing—there also exists the potential to submit supporting evidence for claims, further reducing the submission of paper to VA.

We are learning from others who have been successful in integrating paperless technologies. On January 14 and 23, 2009, we visited the Social Security Administration (SSA) and received a demonstration of their imaging capabilities. SSA has been very helpful in sharing information about their business process transformation. We also visited United Services Automobile Association (USAA) Headquarters in San Antonio. USAA's use of today's technologies has helped to form our vision of how we need to serve and communicate with today's veterans. Control over all documentation is imperative, and while we recognize that paperless is not the panacea, the use of technology will allow VA to maintain electronic copies of documents, which cannot be shredded.

#### **Date-of-Claim Reviews**

Mr. Chairman and Members of the Committee, you also requested a status on the proper date stamping of documents at ROs. I would first like to address the New York RO and the sequence of events that transpired. I would then like to discuss the actions taken by VBA to conduct a nationwide date-of-claim review.

#### **VBA Site Visit Findings at the New York Regional Office**

A C&P site survey team conducted a routine site visit at the New York RO during the week of July 14, 2008. During their visit, it was discovered that 16 of 20 claims had an incorrect date of claim established in the electronic claims tracking program. The New York RO was establishing claims using an unsupported date of claim that was within 7 days of the date of claim rather than the actual date of receipt of the claim. As a result, the timeliness data for the New York RO was inaccurate. It is important to note that no veterans were impacted by these actions.

The then-Assistant Director of the RO met with the Under Secretary of Benefits to discuss the findings of the C&P site survey team. Subsequently, C&P staff members conducted an on-site review of a statistically valid sample of 390 rating-related pending claims to assess data integrity at the RO. Of the 390 cases reviewed, 220 had an incorrect date of claim, representing a 56.4 percent error rate.

#### **Actions Taken as a Result of the Findings**

The Eastern Area Director convened a group to review claims in other categories, specifically completed rating-related claims in FY 07 and FY 08 and pending non-rating claims. Of the 386 cases reviewed, 22.8 percent had errors in the date of claim established in the electronic claims tracking program. At the same time that the 386 case review was conducted, the Eastern Area Director convened an administrative investigative board (AIB) in the New York RO.

The AIB was tasked to conduct a thorough and comprehensive investigation on-site in New York. The AIB interviewed approximately 35 Veterans Service Center employees and supervisors with knowledge of or involvement in the date-of-claim discrepancies during the week of August 11, 2008. Based on the findings of the AIB, we took appropriate administrative action with six RO leaders involved with the inaccurate claim receipt dates.

#### **Nationwide Date-of-Claim Review**

As a result of the findings at the New York RO, the Office of Field Operations and C&P Service conducted a full date-of-claim review. Beginning in November 2008, the C&P Quality Assurance Staff added date-of-claim accuracy reviews to all STAR quality reviews. A comprehensive review of 385 claims from four ROs (St. Louis, Roanoke, Baltimore, and Seattle) was in December 2008.

Concurrent with C&P Service's review of four ROs, the remaining 53 ROs received a list of 385 rating and non-rating completed claims on December 2, 2008. Each RO was given 1 week to review each claim and determine if the appropriate date of claim was applied. The purpose of the review was to determine if ROs are using the proper date of claim, and if not, reasons for using an incorrect date of claim. The review also required each RO to determine whether any use of an improper date of claim was to the advantage of the RO.

#### **Measures Taken to Ensure Proper Application of the Date of Claim**

The C&P Site Visit Staff will continue to conduct date-of-claim reviews during routine site visits. The OFO has worked with each Area Office to conduct additional

unannounced site visits at ROs under their jurisdiction. Unannounced site visits will include a review of a sample of both pending and completed to ensure the integrity of the date of claim. The information documented from both C&P and Area Office site visits is provided to leadership at the RO level, as well as senior leadership in VBA. Based on the findings from on-going date-of-claim reviews, VBA will continue to provide training, guidance and reminders to the field on the importance of the proper date of claim.

The Office of the Inspector General also conducted an audit of date of claim accuracy at ROs. The report, released February 27, 2009, contained three recommendations to improve the accuracy of the dates of claim receipt, including establishing goals for receipt-date accuracy and strengthening controls to provide greater assurance of reliable claims processing times. We concurred with all three recommendations and are taking action to implement the recommendations.

#### **Rebuilding Claims Folders**

As long as VBA continues to establish and store paper claims folders, we will be vulnerable to misplacement or misfiling of records, damaged records, and occasionally losing files. VA has longstanding clear and specific guidelines covering lost folders and rebuilding folders. These procedures include step-by-step instructions of what needs to be completed and how those steps are documented. They are covered in VBA's C&P Manual, M21-MR, Subpart ii, Chapter 4, section D (Lost Folders). In this section, guidance is provided for lost folder searches, special requests for 24-hour searches and file number reconciliation and cancelation procedures.

#### **Lost Folder Searches**

In this section of the Manual, clear guidance is provided for:

- General search procedures,
- Missing claims folders and deceased veterans' claims folders,
- Missing Notice of Death Folders, commonly used in survivor claims, and Dependents' Educational Assistance folders, and
- What to do once a folder is located.

ROs are obligated to conduct an exhaustive search within their facilities before declaring a folder lost. The ROs coordinate with the Records Management Center to ensure that all appropriate facilities and divisions have searched for the record. When these searches are completed and responses properly documented, the RO is responsible for rebuilding the folder.

The process of rebuilding folders includes replicating all evidence available to VA. If there is evidence pertinent to a pending claim that VA does not have, all development must be done again in order to obtain that evidence. In addition, VA is required to notify the veteran and his/her representative of the lost folder and ask him/her to provide any documents pertinent to successful rebuilding of that folder.

If the original claims folder is subsequently located, the RO is obligated to combine the contents of both the claims folder and the rebuilt folder.

#### **Month-of-Death Benefit for Surviving Spouses**

Public Law No. 104-275 amended section 5310 of title 38, United States Code, to provide that a compensation or pension payment issued for the month of a veteran's death shall be treated for all purposes as being payable to a surviving spouse. This change was effective for all deaths after December 31, 1996, unless the surviving spouse is granted death benefits. Due to problems implementing the change in law, some surviving spouses did not receive the veteran's compensation or pension benefit for the month of death.

#### **Retroactive Month-of-Death Payments**

VA is currently identifying surviving spouses who may be entitled to retroactive month-of-date payments. On December 29, 2008, VA made payments to 10,800 surviving spouses. Additional surviving spouses have been identified, and payments to those spouses were made last week. This process will continue as we identify additional beneficiaries due the retroactive benefit.

#### **Changes to Month-of-Death Processing**

Procedures are being revised to automatically issue the month-of-death benefit immediately on processing the notice of death where VA knows of a surviving spouse. No application is required to make payment. We expect to issue the new procedures later this month.

Our goal is to ensure accurate and consistent processing of all month of death benefits so that all deserving surviving spouses get the highest payment allowed for the month of death during their time of mourning.

### Conclusion

Mr. Chairman, I have worked for VA for 35 years. During that time, I worked with many dedicated employees who devoted their careers to serving veterans. The events I discussed about in this testimony, particularly the shredding of documents, go totally against the responsibilities we have as public servants. Veterans have lost trust in VA. That loss of trust is understandable, and winning back that trust will not be easy. We are committed to doing whatever we can to accomplish this.

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### Statement of Susan R. Frasier, Albany, NY

Today's hearing on VA document tampering in veterans claims is long overdue. I welcome and thank you for this opportunity to tell you my story, Mr. Chairman.

I am here to announce and allege to you today that I am the victim of a VA remand order fraud scheme that has been allowed to go on for entire decades in my comp and pen disability claim.

I have literally spent years trying to report this fraud scheme to VA authorities, and to this very minute not one of those reports have been processed, acknowledged, or remedied by any office with the VA agency.

Remand order fraud is largely perpetrated by the Board of Veterans' Appeals at Washington, DC, and is premised upon a falsified and trashed comp case coming out of VA Regional Office at New York City.

I was discharged from the Army in 1972, and a few months later in December, I entered the VA Hospital system as an inpatient here in Washington, DC, for the very first time. I have been in both the VA Hospital system and the VA comp and pen disability system since then, now totaling 37 years. To this very day I have no VA disability benefits, not even a zero percent rating, and I am nearly 60 years old now. I have spent my entire adult life in the system since age 22.

I have been under the jurisdiction of the VA Regional Office in New York City since the year 1977. New York is my home State and I am under the medical care of the VA Hospital in Albany, NY. For the record, please know that I am crippled with a confirmed muscular disease and I walk with a crutch and wear prosthetics on my legs.

I was declared disabled by the Social Security Administration in 1993 which was backdated to the year 1991, and that disability claim was supported in part by written statements and papers from VA hospital practitioners handling my medical care at that time.

In 1996, I was diagnosed with a crippling muscular disease. Although that diagnosis was not the high point of my life, it absolutely did bring much needed answers about my entire medical history up to that point. For years I had suffered with one symptom at a time, and this new 1996 diagnosis had brought some closure to explaining what those chain of symptoms were all about. That was good news for me, but it was bad news for those who had been falsifying my VA ruling papers up until then.

My medical history dated back to my Army active duty days in 1970, 1971, and 1972 and are permanently fixed in my Army hospital files although the VA Raters have blocked those hospital records for years.

At the time of my muscular diagnosis, I had compiled all of the VA diagnostic tests, biopsy surgery results, and related VA practitioner papers through a Privacy Act request, and then submitted them as updates into my then 24-year-old VA comp and pen case. Since that year, 1996, I repeatedly sent those practitioner papers into VA Regional Office in New York City several and many more times thereafter. I flatly reject the idea that the VA comp and pen system does not have these papers because they do have them X 10.

The 1996 diagnosis for my muscular disease basically confirmed the very first medical theories that had been submitted to the VA all the way back to the year 1972 in my case. However, while I thought the diagnosis would finally pave the way for my swift VA disability adjudication, what happened next was anything EXCEPT a rating in my favor.

I found myself on the receiving end of a perpetual and infinite revolving door of Remand Orders and fake ruling papers coming first from VARO New York City, then by the Board of Veterans' Appeals in Washington, DC.

I am caught up in a kind of Remand Order hell of which there is no escape.

Let's start with the fact that the Page 1 *Issues* list of the fake and phony remand orders, are not showing exactly what my VA comp claims are for.

I am, for sure, submitting to the VA concisely named and numbered VA medical diagnostic codes under the 38 CFR Part 4 tables. What I am getting back from the

VA Raters is a vague translated version of those codes followed by the word “disorder.”

Please know and understand that I am almost 60 years old now and all of my medical conditions are fully diagnosed by regular VA doctors. When a person spends 2 full months in the VA Critical Care Ward with abdominal tube life support after a life threatening surgery, I think it's a given that VA doctors along the way would have likely told me what my diagnosis is. They did, but I am finding out now there is no rational way possible to file those medical diagnostic codes into the VA disability system and STILL get a truthful and accurate law finding in return that determines me to be service connected disabled. The VA Raters are just not going to have it that I already know the medical titles of my diagnosis results. It's their plan to keep on writing this case as if they alone can determine my diagnosis.

The better part of all of my medical conditions are diagnosed as a result of surgeries. Very often, those VA surgery reports are only 1 page long in computer format. For as many times as I have cited the VA diagnostic codes under 38 CFR Part 4 and filed them with the 1-page surgery reports from the VA, then that's as many times as I continue to get a denial on the claim by VA Raters and for no apparent reason. The VA Raters appear to be of the idea that I am asking THEM for THEIR “opinion” about what my diagnosis is. *I am not*. If I am diagnosed by licensed VA practitioners then why in the world would I ever turn around and ask an incompetent and illiterate VA Rater for their “opinion” on those findings? It makes no sense. I submit these entries as declarations and not as a “request” for their opinion. My only obligation in disability claims is to submit proofing papers of what licensed doctors have already determined.

Note that VA Raters at the VA Regional Office in New York City, and Board of Veterans' Appeals judges, are *not* medical practitioners either licensed or unlicensed. Most all of my modern day diagnosis are perfectly matched to my Army hospital records from active duty.

For an example of how the VA Raters alter the statement of my medical conditions, take 38 CFR Part 4 diagnostic tables, Code 7308 for instance. VA Raters change this and alter it into “gastrointestinal disorder.” It's important to understand what's happening here, as small as it may first appear to be.

While that by itself seems harmless enough, what the VA Raters are doing by this sleight of hand is basically concealing the fact that I am already diagnosed by licensed medical doctors. They are making it falsely appear on the Page 1 *Issues* section of the fake remand orders, as if I have never been diagnosed at all by any doctor and that some kind of “mystery” lurks in my disability case. No such “mystery” exists and it stands to reason that what I am saying here is true.

After they create this false illusion on paper that there is some kind of “mystery” in my case, then here comes a truckload of “law” excuses for why a remand order is the only solution to the “mystery”. This is fake, this is phony, this is a deceptive practice and it is a fraud scheme. I am here to blow the whistle on the matter and to ask Congress to put a decisive end to all of it. When I submit a claim for Code #7308, then Code 7308 is exactly what I expect to see on my ruling papers when I receive them back from Raters. Anything else is a deliberate falsification for remand order purposes.

After the Page 1 ISSUES section is falsified in this way, then the entire following 15 pages after that are wrong, bungled, misapplied, and misinterpreted and the entire ruling ends up not even worth the paper that it's written on. I've had enough and I'm here to ask Congress to end this practice.

What is taking place in my VA disability case is the ongoing refusal of VA Raters to read my diagnostic papers, compare them to my Army Hospital records, and then pay the claim. Instead I am getting phony remand orders for papers which are already in the C File, and all kinds of fake and phony overtures which suggests I am NOT fully diagnosed. I am for sure, and all they are doing is ignoring or concealing the proofing papers for delay purposes.

My Army hospital papers are blocked in every single review by the VA Raters as relentless abuses of the *new and material evidence rule* under 38 CFR Part 3.156. It seems to me that a full repeal of this regulation would put a swift end to these abuses.

In 1999, I received my first bungled Remand Order from the Board of Veterans' Appeals here in Washington, DC, which was for doctors who were known to be dead; and for places where I had never been treated at; and for other information that was already submitted in my C-File. I knew for sure then that the VA was jerking me around on my disability case.

It took from 1999 to 2008 for me to get to the Board of Veterans' Appeals a second time. I came to the hearing in person on May 21, 2008, at 2:00 p.m. I welcome a subpoena by any investigator who would like to obtain the video of that hearing be-

cause a picture is worth a thousand words. The BVA Judge was completely lost on the case and he conducted the hearing without ever having read any of the case papers. He didn't know what questions to ask and he didn't comprehend the REAL case that I was talking about in front of him.

Also, it just so happens that I am in possession of part of my VA C-File at home which is dated in 2004, but nearly 1/3 of the box was missing in the version that was brought out for my inspection at the BVA Hearing in May of 2008. So I knew from that moment there would be a chance for a bungled ruling yet again but I was hoping for the best.

In August, I received the second fake and phony remand order from BVA, once again completely incorrectly showing a falsified ISSUES list on the Page 1 of the ruling. He went on and on talking about my PTSD claim, when in fact, no PTSD claim from me was ever submitted for that appeal, nor was it argued at the hearing, nor was any evidence submitted in the papers for that appeal. Basically he was assessing a PTSD condition on paper that was nowhere sitting before him. It was all his own fabrication in the ruling and he was in it by himself. This is why the hearing video would be important to see because there is no match between what actually went on at the BVA hearing and the resulting and absurd 15-page falsified ruling which came out later in August.

Incredibly, he "remanded" the case for more papers on the PTSD not realizing the HUGE mistake he had made. Within approximately 5 days of the fake remand order, I submitted a Motion for Reconsideration and to Vacate the remand order, which was well within the 120-day allotted time for such a Motion.

In October, he issued a second fake and phony ruling, first removing the falsified PTSD entry but then leaving behind the other 5 or 6 remaining falsified entries as "Issues." All of the Issues were altered and reworded to NOT coincide with the evidences I had submitted on the appeal.

I can tell you with certainty, that it's my considered opinion after receiving these fake papers, that the Board of Veterans' Appeals is not even reading C-Files. They are just reaching in the box and grabbing a handful of papers and making up whatever story they can concoct for the sake of issuing a fake remand order for delay purposes to not pay the claim.

There is nobody who is more evidenced than I am with Army hospital records, an A-1 physical rating upon my entry into the military, VA hospital records spanning 37 years by VA doctors, and yet after all of THAT, the Board of Veterans' Appeals STILL cannot get it right in my case. I have concluded that these events are deliberate and not a mistake, and that even when handed the papers they are claiming to need, then it's STILL not enough to pay the case. This is nuts.

As you know, Veterans cannot receive free lawyer assistance on disability claims until we enter the Court of Veterans Appeals. After receiving the second falsified BVA Remand Order, I then filed my court papers and began the search for lawyer representation.

It was here that the value and purpose of issuing fake remand orders began to reveal itself. I came upon a veterans lawyer in Washington who was found to be harboring and protecting the fake remand orders coming from the BVA. While trying to solicit his services for the case, it all came out that he only and exclusively reviewed what the BVA said in cases and *NOT* what the client (veteran) side of the case was. In other words, the client is never represented, only the VA is represented to the client by this particular lawyer. This is a second fundamental piece to the remand order fraud which is the full wall of silence and protection coming from the veterans lawyer community, and includes the VSOs.

The national veterans claim backlog grew to nearly 800,000 at one point last year and yet Congress has not really connected the dots that it happened on their watch. So this self-admitted, one-sided case review to only consider the VA's side of a case is the next big reveal that came to bear as I was trying to get help in the fake remand order scheme.

Allegedly the Veterans Pro Bono Consortium is receiving Federal funding from the Court of Veterans Appeals to represent veterans before the court, and yet this very same Consortium has taken an advance position that all remand orders issued by the BVA are true, valid, and legitimate which quite frankly, is a breach and violation of the standing Bar Associations doctrine that lawyers must review cases on their individual merits. Case in a box and McClaims are not valid law practices by most law firms, but here it is alive and well inside the national veterans claims arena.

It seems that VA remand orders generally, no matter how falsified, or how bungled, or how misstated on the details of the case by the BVA Rater, do have the final result of blocking the veterans from accessing the free lawyers for representation at the Court of Veterans Appeals. I was rejected across the board by all lawyers



for representation in my case, for no other reason that I had a remand order—no matter how trashed and falsified. I was effectively boycotted.

It was also found that the Court of Veterans Appeals is refusing to even accept or hear remand orders of any kind, no matter how trashed, falsified, or misstated by the BVA Raters. Again, the Court presumes all remand orders to be true, valid, and legitimate and their authority does not remain open for the possibility of VA driven fraud schemes or deliberately falsified documents.

At the Court of Veterans Appeals on February 9th, the VA agency filed a Motion to Dismiss my appeal followed immediately by a Motion for a Stay in contemplation of a dismissal. The Court Clerk, without any judicial review and just 15 minutes apart after the VA had filed their motions in Washington, went ahead and granted the VA's motion. This is in clear violation of constitutional Due Process and is a breach of the *ex parte proceeding* rule under 38 USCA.

I assert to you today that I am fully entitled to a right of Notice in my case and the right of responsive pleading. *Ex parte proceedings* are prohibited in all Federal courts, but here it is alive and well at the Court of Veterans Appeals.

This is all out legal malpractice at the Court, and it shows that the entire veterans claims system at every level, is self absorbed, out of control, and having it's way with the sick and injured of our Nation.

This story gets even worse. After all of that, in November of 2008 and right while my trashed VA case was being bounced around between the BVA and Court, the very man who was falsifying my ruling documents at the VARO level out of New York City was included in a mass firing which made newspaper headlines. In a small way I felt vindicated, but my filed complaints on this guy, which to this very day still remains unprocessed at the VA.

The VA Inspector General, for the entirety of the 1990s and into the 2000 decade now, had repeatedly refused to accept my complaints that the VARO in New York City was deliberately falsifying my ruling documents. I was given a rejection form letter saying that the IG did not process filings, related to veterans claims. In January of 2008, I alternately filed 2 different VA Civil Rights complaints on the very guy who eventually was fired or suspended out of New York City. Those Civil Rights complaints have also never been processed by the VA in Washington to this day. Walls of silence, lockouts, boycotts, and refusals to assist: these are the common trends and practices of what I have been getting out of the national veterans claims system for my case. No help, just excuses and *ex parte* decisions at the Court.

Also during this time, a national scandal has broken out involving other VA regional offices shredding documents that were submitted by Veterans for their disability claims. It is my suspicion, and partly why I am here today, to allege that these shredded documents may be attached to the much larger crimes of VA-caused remand order fraud. What the VA gets away with at one location, often creeps into other locations. Remand order fraud is the perfect VA crime because one has to be incredibly smart to even discover it.

There is, for sure, a legislative void in this issue of remand orders. Veterans are never notified by any VA publication whatsoever, that remand orders are NOT appealable at the Court of Veterans Appeals. [says the Veterans Pro Bono Consortium]

I have been forced to sit through (for *years* at a time) fake ruling orders for medical conditions I had never applied for, and for evidence papers which were separated and confused by the VA and then misapplied to the wrong medical conditions among other things. I've had every dirty rotten trick in the book played on me in the ruling papers of my case.

And let's talk a minute about the misuse and abuse of "comp and pen exams." There is NO comp and pen doctor under the sun who is going to read my 37-year-old C File, spanning several boxes of medical and surgical files from 1972 to 2009, and then do this all in a matter of a 1-hour VA exam. This is perhaps one of the most wasteful, overly abused, and malpractice burdens of all which VA Raters are putting upon lifelong backlogged cases.

Understand that I will not consent to a "comp and pen exam" because nothing at all other than more of the same, will come out of such a scenario. It's bungled now, and I will just get more bungled out of a comp and pen exam. What can a "comp and pen" exam show in 1 hour that my VA licensed doctors haven't seen in 37 years? This question deserves a serious answer.

How many decades will I be forced to sit through a pile of fake and phony remand orders before some official police authority comes to my rescue?

How elderly must I be before my VA Hospital papers are compared to my Army Hospital papers to show once and for all that I am truly a service connected disability case?

If I *never* receive another "final order" in my case again, then does this mean that I can also *never* file an appeal at the Court of Veterans' Appeals again? And is it

for sure, the true intent of Congress to have NO appeal process whatsoever for fake and phony remand orders which are issued by the criminal agendas at the Board of Veterans' Appeals? When does a lifetime remand order become "final" for appeal purposes, and are there no possible conditional scenarios where remand orders are FORFEITED by reason of VA abuse?

What do BVA Raters think they are competing with exactly, when they put veterans through lifelong overkill process, when at the very same time, those veterans are holding full diagnosis papers from surgery outcomes?? Clearly, the Board of Veterans' Appeals does NOT understand it's role in disability claims. Since when is the BVA empowered to *not* accept surgery findings from licensed hospital practitioners as rational proofing of a disability claim?

At what point over a lifetime is the veteran given a golden parachute to go directly to the VA pay order and to stop the flow of remands?

These are all fair questions to know.

There needs to be more clarity in police authority at the VA so that those of us who are crime victims can speedily report corruption to the authorities and not receive some ridiculous rejection form from the VA Inspector Generals Office saying they have no jurisdiction in matters related to veterans claims.

And what exactly is the true meaning of patient abuse and patient exploitation in the VA disability process—because I can make a very good case right now that I have been through both in the name of pursuing my disability benefits from the Army?

As a lifelong backlogged case in the VA disability system, I hope this Committee can rescue me and others like me who are hopelessly trapped in this VA process from hell.

I will be glad to meet with any Federal prosecutor who would like to seriously pursue a conviction at the VA as I have the worlds biggest stockpile of papers showing VA Raters gone amuck. Bring on the handcuffs I say, and shame on the lawyers who have been protecting them.

In conclusion, if you look at the list of broken pieces that I just finished describing, then there really is too much here to be considered a "coincidence": false ruling documents, altered medical conditions, boycotting lawyers, case rigging at the appeals Court, and suspended police action not processing reports. It certainly sounds like a crisis to me!

Thanking you today Mr. Chairman.

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#### **Statement of Master Sergeant Kurt Priessman, USAF (Ret.) Vernon, TX**

Honorable Chairmen and Members, I thank you for inviting me to testify before the joint session of the Subcommittees on Disability Assistance and Memorial Affairs and Oversight and Investigations today. I come before this esteemed body as a citizen, as a military retiree and former civil servant, as a disabled Vietnam Veteran and bearer of the Order of the Silver Rose, and as the proud father of an active duty military member. My name is Kurt Priessman, MSgt, USAF (Ret) from Vernon, Texas. I have previously provided testimony to this Subcommittee on the subject of the Backlog and the Claims Processing System.

I thank Mr. Larry Scott of VAWatchdog.org, whose published articles and information provided Veterans with the ability to determine from internal sources that the Veterans Administrations Office of Inspector General found evidence of spoliation and tampering of Veterans claims. Accordingly, when the Department of Veterans Affairs, Veterans Benefits Administration generated FAST Letter 08-41, they admitted that something was seriously amiss with Veterans records and thus with rating decisions at Regional Service Centers across the country.

On behalf of all Veterans, we ask these Committees to comprehend the nature of these events and understand that Veterans are not willing to pass them off to be forgotten. These findings are egregious and are widespread. The following amnesty period, while not well known, definitively showed that these were not misdeeds of a few "bad apples"; they are not symptoms, they are the results of efforts by senior management and supervisors to "meet a quota" set by a very poor work credit system. This system must end immediately.

Veterans wonder why the VAOIG Report was not forthcoming, and now, when finally it is published, will put almost no credence in its findings unless the Report puts the responsibility on what Veterans across the country believe is an extension of the "deny, deny, until they die" mentality of senior Department and Veterans Benefits Administration officials. Their trust, if there was any left, will not be restored by the testimony of these officials before these Subcommittees.

And so it is that Veterans across this Nation are asking you, our elected representatives, to do more than ask piercing questions, to do more than accept pre-prepared excuses, to do more than write off the truth as “anecdotal stories”. You must begin to accept that the disability claims system is so severely broken that it must be simplified. Professor Linda Bilmes of the Harvard School of Business and a Presidential Advisor made a brilliant suggestion in previous testimony as did several members of the most recent hearing of the improvement of the Appeals Process. But please know that to do nothing denigrates Veterans and their families, their service to the country, and this esteemed body. I sincerely ask you to consider that what you are experiencing here is an affront by the Department, not only to the Congress, but to all Veterans of the United States of America.

Veterans ask you to consider what has really happened since Chairman Filner’s Roundtable Discussion on Wednesday, November 19, 2008, and Admiral Dunne’s mea culpa.

As an example, this Veteran filed a claim on November 25, 2008, in accordance with the FAST Letter concerning the adjudication of a decision in which “the claim was considered by VA based on an incomplete record because the supporting evidence or information was not added to the record.”

This Veteran received no acknowledgement, there was no indication of a need for a “Report of Contact” (Step1); there were no requests for any documentation (Step 2a), there was no VCAA letter as specified (Step 2b); nor was there anything from the Regional Service Center complying with Step 2c. The Veteran finally received an acknowledgement on February 18, 2009, after asking through the Inquiry Routing Information System (IRIS) on January 27, 2009, again on February 6, 2009, and finally on February 11, 2009.

What begs to be answered is what exactly has been done at Regional Service Centers?

What are Veterans really facing with regards to the implementation of this letter?

Are Veterans really being given the benefit of the doubt concerning lost, shredded, withheld, and spoliated documents or is the Department doing something else?

I personally asked a senior representative of the Disability Compensation and Pension Branch here in Washington if there was forthcoming guidance, and his honest answer was, “I haven’t seen anything on the subject floating around these halls”.

And so I am forced to ask:

Are the Regional Service Centers in receipt of changes in M21-1MR? If so, why are there no published updates available to Veterans, their Advocates, or their Veterans Service Officers?

Are any of these procedures published in the Federal Register? While promised, there are none anyone has seen.

Do Veterans know what they are to do, what they should expect from the VBA and when? It is not at all likely. Or using the phraseology of the VA “It is more likely than not” that the VBA continues its “modus operandi” of keeping the Veteran wondering what, when, and how their claims should be filed and how they will be handled?

In conclusion, I believe this is standard operating procedure by the Department, as is non-compliance with most of its own regulations. I request that the Sub-Committees recommend to the Chairman of the House Veterans Committee and to the full Congress legislation that:

1. simplifies the claims process;
2. precludes “negotiation” of the findings of a VAOIG Report;
3. codifies the FAST letter;
4. places spoliation of Veteran documentation as an area of concern, and
5. adopts a no tolerance policy and sets forth disciplinary procedures in regulation that requires termination of anyone found responsible for spoliating, shredding, or withholding any claim document without exception.

Thank you all for your patience in this critical matter.

Cohocton, NY.  
February 15, 2008

Secretary Eric Shinseki  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Re: XC 24 884 978

Dear Secretary Shinseki,

In spite of the VA Fast Letter #08-41 dated November 14, 2008, and the Inspector General's audit, and in spite of the pending hearing set for February 25th by the Subcommittee on Disability Assistance and Memorial Affairs regarding the "October Incident" the Veterans Administration has again destroyed my probative medical evidence.

In defiance of the terms of a September 2008 BVA remand, which for the first time acknowledged my three independent medical opinions that support my claim and also references other documentation I had sent to VA as probative evidence—the decision I just received from the AMC, which was mailed to me from the Seattle VARO (the claim originated at Buffalo VARO where I filed it in February 2003, 6 years ago) this decision shows that my evidence has been destroyed again by the Veterans Administration.

I have enclosed copies of 53 tracking slips from USPS since Feb 2003 that proves that I not only sent this evidence in, I also sent it directly to Donna Terrill Director VA Buffalo, directly to Terry Draper DRO Buffalo, to Former Deputy Secretary Mansfield (April 2008) (whose office in turn submitted it again to the Buffalo RO) and as you can see these were numerous submissions of considerable evidence. I am a volunteer veterans disability advocate and I certainly know what is probative evidence and what is not redundant nor accumulative evidence. I also am aware of all VA case law and regulations that assure a claimant's evidence will be properly considered.

Since this involves so much evidence and even subsequent submissions of it all again, in my case, I can hardly accept any notion that it has somehow all been misplaced or lost. It has been destroyed by the Veteran's administration, most recently under the jurisdiction and auspices of the AMC.

Since my most critical evidence from 1995 to 1997 was destroyed by the Buffalo VA and only by calling the Strategic Health Team at VACO did I have it finally properly addressed, when I faxed it directly to them—this too adds credibility to my charge that the Veterans Administration has again destroyed my evidence. Also I have two CUE claims filed in 2004 that the Buffalo VARO has ignored and probably destroyed my extensive legal evidence on as well, since they never have acknowledged this legal evidence at all.

The Neurologist, Dr. Hamid Rabiee, had prepared a VA MRI report on the veteran when he was employed at the VA and was treating my husband at the Syracuse VAMC. His IMO statement of 2004 incorporated into the first IMO from Dr. Bash was based on his own medical entries in the VA clinical records when he himself had treated the veteran. Dr. Craig C. Bash based his opinions of November 2004 and August 2006 on many other medical points to include his experience in reading "thousand's" of MRIs of diabetics and he gave full medical rationale for his conclusions. My IMO opinions fully outweigh the expertise of a physician's assistant who opined on this claim recently without the entire record and evidence.

I have submitted to VA, as well as evidence from the actual VACO report of malpractice dated July 1997, a prior Internal VA Review that supports this claim that VA said never existed at all but I have sent the VA a copy of it, EEOC testimony, the veterans complete autopsy, Corning College Voc Rehab Accommodation request info, VA, as employer of the veteran-accommodation request info, SSA records, and countless medical abstracts I sent that are SPECIFIC in every way to the claim, the Veterans Administration—most recently under the auspices and jurisdiction of the AMC, has chosen to destroy that evidence and to completely violate the conditions of the BVA remand. The BVA remand also told me that I could send in more evidence and additional argument for proper resolve. I did—the AMC received this packet of evidence and argument on October 3rd, 2008. That too has been destroyed by the AMC.

You have inherited problems that will continue to get worse. The IG audit is not public and so far only the online veterans communities are fully aware of the "October Incident." The VA has not implemented any viable scenario at all to support the statements in the Fast Letter #08-41.

I want the AMC to call a CUE on itself, to realize they have made a clear and unmistakable error to my detriment by not acknowledging my extensive and pro-

bative evidence. I want a decision under Relative Equipoise because my medical evidence far outweighs the VA's and comes from medical doctors who have the expertise to make a valid opinion and who also considered the clinical record and other evidentiary documents properly. Also my competent lay evidence and abstracts are pertinent and probative to this claim I want ALL of my evidence considered.

Respectfully,

Berta M. Simmons  
*Surviving Spouse of Rodney F. Simmons*

Enclosures: copy 53 USPS tracking slips  
Copies being sent to:  
Inspector General VA  
Congressman Hall House Subcommittee Disability/Memorial Affairs  
Congressman Filner House VAC  
Subcommittee Investigations and Oversight VA  
Arthur Russo, Director Appeals Management Center-VA

**MATERIAL SUBMITTED FOR THE RECORD**

***Veterans Affairs Probe: Records Found in Shredder Bin***  
***Employee Under Investigation***  
**Thursday, November 6, 2008**  
**By Chuck Crumbo**  
**ccrumbo@thestate.com**

Veterans Affairs officials are investigating why 95 records were erroneously dumped in a shredder bin at the VA office in Columbia.

An unidentified employee at the Columbia office is under investigation for mishandling the documents, which include new benefits claims and other personal files, VA officials said.

"I can't discuss in detail what action may be taken against an employee in this instance until the investigation is complete," VA press secretary Alison Aikele said Wednesday.

In South Carolina, the possible destruction of benefit claims could affect some of the State's 413,000 veterans. The shredding probe involves the VA's benefits offices, not the hospitals.

So far, few veterans suspect they might have a problem resulting from their benefit claim being erroneously shredded.

"We don't know how many, we don't know why it happened," said Rodney Burne, quartermaster of the Veterans of Foreign Wars S.C. department. "It will be interesting to find out."

The documents slated for destruction were found in the shredder bin Oct. 3 as part of the agency's inspector general's review of how veterans records and claims are handled.

The probe discovered 41 of the VA's 57 regional offices, including Columbia, had 500 records wrongly slated for shredding. The VA further determined that half of those records were found in shredder bins at the Columbia office and at two other offices, St. Louis and Cleveland.

Forty-six of the records—or about half—discovered in the shredder bin at the Columbia office were either new claims for benefits or supporting documents.

Other claims included burial and death benefits, notices of clients' disagreements with VA rulings, and documents for education benefits.

The House Veterans' Affairs Committee, whose Membership includes U.S. Rep. Henry Brown, R-S.C., plans to look into the issue in mid-November, an aide said. "We're going to have a roundtable discussion," the aide said, explaining the session would not be as formal as a Committee hearing.

Officials from the VA as well as representatives of veterans service organizations will be invited to the discussion, she added.

Brown called the reports "troubling," and added "there is never any excuse for the shredding of documents especially when they jeopardize the benefits our veterans are entitled to."

Brown said the incident "shows how important it is for the VA to focus on modernizing its information technology systems and establishing clear safeguards."

The shredding issue was first reported by vawatchdog.org, a Web site run by Army veteran Larry Scott, of Vancouver, Wash.

Scott learned records were erroneously dumped in shredder bins at the VA's Detroit office. VA investigators discovered Detroit was just part of the problem, so they ordered all 57 offices to check their shredder bins.

The fact that the Columbia office would have the most records in the shredder bin wasn't a surprise, Scott said.

The Columbia office has a reputation as a "troubled office," meaning it has a low clearance rate of veterans claims.

In 2005, the VA reported Columbia had the third-highest remand rate of the agency's 57 regional offices. A remand is a benefit case that, once appealed, must be redone.

The VA said 50.1 percent of 3,095 cases filed with the Columbia office had to be remanded. The agencywide average was 44.3 percent.

Scott doubted Oct. 3 was the only time documents were erroneously headed for the shredder.

The mishandled documents add fuel to many veterans' suspicions that the agency's policy is to frustrate a vet's effort to process a claim, Scott said.

"The expression is: 'Delay, deny and hope that I die,'" Scott said.

Millions of documents are routinely shredded by VA offices without incident, Aikele said.

Shredding is done to protect the veterans' privacy. It is supposed to be done after documents have been copied, she added.  
 "They're just not tossed in the garbage," Aikele said.  
 Reach Crumbo at (803) 771-8503.

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Committee on Veterans' Affairs  
 Subcommittee on Disability Assistance and Memorial Affairs  
 Washington, DC.  
 March 4, 2009

Michael Walcott  
 Deputy Under Secretary for Benefits  
 Veterans Benefit Administration  
 U.S. Department of Veterans' Affairs  
 810 Vermont Ave., N.W.  
 Washington, DC 20420

Dear Mr. Walcott:

In reference to our House Committee on Veterans' Affairs Joint Subcommittees on Disability Assistance and Memorial Affairs and Oversight and Investigations Hearing on "Document Tampering and Mishandling at the Veterans Benefits Administration" on March 3, 2009, I would appreciate it if you could answer the enclosed hearing questions as soon as possible.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call my office at (202) 225-2315.

Sincerely,

Ann Kirkpatrick  
 Member

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**Questions from Rep. Ann Kirkpatrick, Member  
 House Committee on Veterans' Affairs  
 Subcommittee on Disability Assistance and Memorial Affairs  
 Hearing on "Document Tampering and Mishandling at the Veterans  
 Benefits Administration"  
 March 3, 2009**

**Question 1:** During today's hearing, we discussed claims documents that were improperly shredded. This raises an important background question: Why are documents pertaining to an open claim shredded at all?

**Response:** Many of the documents identified for shredding are duplicate copies of electronic records printed from VA systems. VBA allows duplicate copies of electronic records printed from VA systems or documents that have no impact on a pending claim, or have no historical value to be shredded. However, duplicate documents that are submitted by Veterans and other claimants are returned to the claimants. Retaining duplicate or irrelevant documents in claims folders unnecessarily increases folder size and impacts the records review time required to process claims.

**Question 2:** The restriction of needing two signatures before any document can be shredded seems very inefficient. Has anyone explored the possibility of scanning and saving each document that is shredded, so that the scanned records can be used as an auditing tool and documents can be easily recovered in a worst-case scenario?

**Response:** The protection of Veterans' paperwork is of the utmost importance to VBA. We are committed to ensuring that we have systems in place to safeguard all Veterans' records and that employees are held accountable. We believe the proce-

dures we put in place for protecting Veterans' paperwork are necessary in order to regain Veterans' confidence and trust in VBA's handling of their documents. The established procedures ensure only documents with no record value are slated for destruction. We agree that we must leverage today's technologies to protect Veterans' information and support claims processing. We are working aggressively to achieve our goal of paperless claims processing by 2012.

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Committee on Veterans' Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
*March 25, 2009*

Kerry Baker  
Assistant National Legislative Director  
Disabled American Veterans  
807 Maine Avenue, SW  
Washington, DC.

Dear Mr. Baker:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittees on Disability Assistance and Memorial Affairs Oversight and Investigations hearing on "Document Tampering and Mishandling at the Veterans Benefits Administration" held on March 3, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Friday, April 24, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
*Chairman*

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**UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL  
AFFAIRS  
March 3, 2009, Oversight Hearing on Document Tampering and  
Mishandling  
Response to Questions for the Record from Chairman John J. Hall to Kerry  
Baker**

**Question 1:** What would DAV agree to be a reasonable time for VA to undertake to implement the IT system and Imaging Centers you described in your statement?

**Response:** From our understanding, the VA has already sought information from contractors regarding potential projects such as the DAV's proposed image scanning center. For example, the Social Security Administration uses such a contractor for that very purpose.

Therefore, current technology not only exists, but is in use. Acknowledging this, it actually hinges upon the priority placed on the issue of fully electronic records. If the agency were to consider this one of its highest priorities, we believe that such an undertaking could begin within the next 12 months.

The VA has stated that they plan on being completely paperless by 2012. However, we do not fully understand the mechanism for success behind this goal, *i.e.*, an image scanning center or some other form of electronic media. Nonetheless, we believe that 12 months is sufficient to begin this undertaking, whether it is utilized



at a test facility first, only on new claims coming into the system, at the appellate stage, etc.

**Question 2:** VA says that it is allowing a “relaxed claims submission” period for claimants who fall within the 18 month period leading up to the discovery of the shredding. Do you have any reason to believe that the shredding could have been going on longer than that based on the feedback from DAV service officers over the years? Have any veterans expressed concern that they had claims that were denied before the 18 month window because VA did not consider information that the veterans, in fact, provided.

**Response:** This question is very difficult to answer with certainty. As a former Service Office Supervisor, I can state that there has been many occasion wherein evidence never made it to the claims file, ultimately leaving the claimant no choice but to resubmit the evidence. Therefore, as it pertains to the question, shredding could have been going on longer than the 18 month window. However, such mishaps could just as easily be the result of incompetence; it's impossible to know.

Regarding the second part of the question, the DAV has not had any significant number of claimants state that their claims were denied because VA failed to possess and then consider all pertinent evidence. We actually anticipated more than has surfaced.

**Question 3:** In her testimony, VA's Assistant Inspector General for Audit tells us that so-called mail amnesties in Detroit and New York uncovered 16 thousand pieces of mail and other documents that had not been processed. Have you ever heard of these mail amnesties? How often do veterans tell you that they have submitted paperwork, and how well does VA deal with these situations.

**Response:** This is a first. We had never heard of mail amnesties. We do hear from claimants often wherein they indicate that evidence was submitted but that VA doesn't have the evidence. Until now, these situations were not handled well. The VA claimant was usually forced to produce more copies of the evidence unless the claimant could prove that VA received the evidence. It can be very frustrating in cases where the veteran or widow submits their only copy of the evidence.

**Question 4:** You indicate in your testimony that you are aware of the document handling procedures now in place. Do you believe this new process is sufficient to protect veterans' claims until the IT solution is complete, or do you still have concerns with potential mishandling of records?

**Response:** I do believe it is sufficient to safeguard the records, but at a price. It's time consuming and burdensome. It will likely slow down production on claims' decisions. The DAV believes a better approach is to pass legislation that mandates criminal punishment for VA employees who maliciously destroy evidence. Criminal prosecution is a large deterrent, one that appears to be very effective in preventing fraudulent claims. It does not work as a deterrent for destroying evidence because title 38 does not mandate such prosecution for VA employees.

Committee on Veterans' Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
March 25, 2009

Mr. Ronald Abrams  
Joint Executive Director  
National Veterans Legal Services Program  
1600 K Street, NW, Suite 500  
Washington, DC 20006

Dear Mr. Abrams:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs and the Subcommittee on Oversight and Investigations hearing on “Document Tampering and Mishandling at the Veterans Benefits Administration ” held on March 3, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Friday, April 24, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
Chairman

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**Response From Ronald B. Abrams for  
Question From the House Committee on Veterans' Affairs,  
Subcommittee on Disability Assistance and Memorial Affairs  
Hearing on "Document Tampering and Mishandling  
at the Veterans Benefits Administration"  
March 3, 2009**

**Question 1:** Do you believe that Congress should not consider any proposals to modernize the VBA disability claims processing system that would infringe or eliminate any of the veteran's current procedural rights? Are there any circumstances in which you would support such action?

**Response:** Congress should not avoid considering a proposal simply because it would infringe or eliminate a veteran's procedural rights. NVLSP would support a set of changes, assuming that there are comprehensive changes to the claims adjudication process, that, as a whole, benefit veterans and other claimants. NVLSP believes that the best way to improve VBA and to make things better for veterans seeking VA disability benefits is to implement comprehensive—not piecemeal change. If NVLSP believed that a set of changes would benefit claimants as a whole, NVLSP could well support the changes even though some rights of the claimants would be curtailed.

**Question 2:** I am very interested, and I agree with your streamlining suggestions regarding hearing loss and PTSD criteria. However, I often hear that this will open the system to much more waste, fraud and abuse by veterans. What do you think of that possibility and what would you do to mitigate it from happening? What has been the response from VA to your streamlining suggestion?

**Response:** Abuse probably exists in any disability system. That said, we do not believe that the changes proposed by NVLSP would cause much more, if any, fraud, waste and abuse. We say this because having the VA presume that veterans were exposed to acoustic trauma, or that a veteran who served in a combat zone is telling the truth when he or she describes a traumatic incident to support a claim for PTSD, only establishes the in-service incident, not the diagnosis. Also, in many instances medical experts can catch those who are attempting to abuse the system.

For example, if the VA was required to presume that veterans were exposed to acoustic trauma, only one element of the three required to establish service connection would be presumed. (*See Caluza v. Brown*, 7 Vet. App. 498, 506 (1995) aff'd, 78 F.3d 604 (Fed. Cir. 1996) (table). Obviously a presumption in favor of only one of the three elements does not guarantee the grant of service connection. Also, it does not mean that all veterans who have a current hearing loss will obtain service connection. This is true because these claimants will still have to establish that they suffer from hearing loss consistent with acoustic trauma and obtain a medical opinion that the current hearing loss is linked to the acoustic trauma in service.

It should be noted that there are tests that can, in many instances, identify hearing loss that has been caused by acoustic trauma. According to the attached 2002 position paper issued by the American College of Occupational and Environmental Medicine, "[i]n early noise-induced hearing loss, the average hearing thresholds at 500, 1000, and 2000 Hz are better than the average at 3000, 4000, and 6000, and the hearing level at 8000 Hz is usually better than the deepest part of the "notch." This "notching" is in contrast to age-related hearing loss, which also produces high frequency hearing loss, but in a down-sloping pattern without recovery at 8000 Hz." This means the VA, in many cases, should be able to differentiate old-age hearing loss from noise induced hearing loss.

**PTSD:**

Please note that veterans seeking service connection for PTSD cannot be service connected unless they have been diagnosed with PTSD and the current PTSD is linked to a traumatic event in service by a medical expert. Therefore, while those

who served in a combat zone may be presumed to have been exposed to a stressor, to win disability benefits, these veterans would still have to be diagnosed with PTSD and then have the PTSD linked to service.

According to the VA Clinicians Guide “[A]t times, the examiner may have questions about the degree of distortion or fabrication in the interview. The clinical picture of PTSD is relatively easy to fabricate on a superficial level but very difficult to fabricate in depth. Thus, the more detailed the history taking, the greater the validity” (*Clinicians Guide, Chapter 14, par. 14.10*). Therefore, if the VA examination is properly conducted there should be little fraud, waste or abuse.

**Question 3:** When you have participated in quality reviews with The American Legion, what do you do when you see that a folder has been mishandled.

**Response:** When The American Legion quality review team identifies an error it is first brought to the attention of VA regional office (RO) officials, time permitting. The RO officials then have a opportunity to defend their decision or correct the error while the team is still at the RO. Then the Legion prepares a report that is sent to RO for additional review and comment. Again, the RO has a chance to correct any errors identified by the Legion. Also, while these reviews are ongoing Legion service officers may be obtaining new evidence or filing new claims which were generated by the quality review. Eventually, a final report is issued and a copy of the report is sent to both the VA and to Congress.

**Question 4:** What other mishandling issues do you see at the regional offices on a regular basis? How are veterans claims impacted by improper handling.

**Response:** NVLSP finds that, in general, the most serious problem at the regional offices is that VA adjudicators fail to take the time to assist the claimant by attempting to obtain the evidence necessary to substantiate the claim and therefore adjudicate the claim before the necessary evidentiary development has taken place. These inadequately developed and adjudicated claims clog the system because many of those unfairly denied file appeals which eventually force the VARO and the BVA to unnecessarily spend far too much time reviewing the case, sending the case back for proper development, and then adjudicating the claim once more. If the VA would take the time to adjudicate claims correctly in the first instance, in the long run VA workload would be substantially lessened and, more importantly, veterans would be better served.

The frustration level of veterans confused by these premature adjudications cannot be underestimated. Some just drop out and others suffer emotional and financial stress. There are far too many veterans who have been unfairly denied. Also, there are too many veterans who have not been afforded fair process.

Based on our participation in Legion quality reviews and based on our review of thousands of BVA denials, NVLSP has noticed the following major error patterns:

1. denials that are premature because the regional office (RO) inadequately developed the claim or because the RO relied on inadequate medical information;
2. improper denials of disability claims for Post Traumatic Stress Disorder;
3. assigning disability ratings for service-connected mental conditions, joint disabilities, and diabetes that are lower than the rating warranted by proper application of the VA rating schedule; and
4. failure to adjudicate claims for secondary service connection and for individual unemployability that are reasonably raised by the record.

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#### ATTACHMENT

#### AMERICAN COLLEGE OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE

ACOEM is the pre-eminent organization of physicians who champion the health and safety of workers, workplaces, and environments.

## Noise-induced Hearing Loss

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Since the publication in 1989 of an earlier position statement by the American College of Occupational and Environmental Medicine (ACOEM),<sup>1</sup> noise-induced hearing loss remains one of the most prevalent occupational conditions, partly due to the fact that noise is one of the most pervasive occupational hazards found in a wide range of industries. ACOEM believes that occupational clinicians need to become increasingly proficient in the early detection and prevention of noise-induced hearing loss. This requires clarification of current best practices, as well as additional research into certain aspects of noise-induced hearing loss that remain poorly understood.

Based on current knowledge, and to promote improved surveillance and research for this condition, ACOEM proposes the following update of previous position statements regarding the distinguishing features of occupational noise-induced hearing loss.

### Definition

Occupational noise-induced hearing loss, as opposed to occupational acoustic trauma, is hearing loss that develops slowly over a long period of time (several years) as the result of exposure to continuous or intermittent loud noise. Occupational acoustic trauma is a sudden change in hearing as a result of a single exposure to a sudden burst of sound, such as an explosive blast. The diagnosis of noise-induced hearing loss is made clinically by a medical professional and should include a study of the noise exposure history.

### Characteristics

The principal characteristics of occupational noise-induced hearing loss are as follows:

- It is always sensorineural, affecting hair cells in the inner ear.
- Since most noise exposures are symmetric, the hearing loss is typically bilateral.
- Typically, the first sign of hearing loss due to noise exposure is a “notching” of the audiogram at 3000, 4000, or 6000 Hz, with recovery at 8000 Hertz (Hz).<sup>2</sup> The exact location of the notch depends on multiple factors including the frequency of the damaging noise and the length of the ear canal. Therefore, in early noise-induced hearing loss, the average hearing thresholds at 500, 1000, and 2000 Hz are better than the average at 3000, 4000, and 6000, and the hearing level at 8000 Hz is usually better than the deepest part of the “notch.” This “notching” is in contrast to age-related hearing loss, which also produces high frequency hearing loss, but in a down-sloping pattern without recovery at 8000 Hz.<sup>3</sup>
- Noise exposure alone usually does not produce a loss greater than 75 decibels (dB) in high frequencies, and 40 dB in lower frequencies. However, individuals with superimposed age-related losses may have hearing threshold levels in excess of these values.
- The rate of hearing loss due to chronic noise exposure is greatest during the first 10–15 years of exposure, and decreases as the hearing threshold increases. This is in contrast to age-related loss, which accelerates over time.
- Most scientific evidence indicates that previously noise-exposed ears are not more sensitive to future noise exposure and that hearing loss due to noise does not progress (in excess of what would be expected from the addition of age-related threshold shifts) once the exposure to noise is discontinued.<sup>4</sup>
- In obtaining a history of noise exposure, the clinician should keep in mind that the risk of noise-induced hearing loss is considered to increase significantly with chronic exposures above 85 dBA for an 8-hour time-weighted average (TWA). In general, continuous noise exposure over the years is more damaging than interrupted exposure to noise which permits the ear to have a rest period. How-

<sup>1</sup> ACOM Noise and Hearing Conservation Committee. Occupational noise-induced hearing loss. *JOM*. 1989;31(12):996.

<sup>2</sup> McBride DI, Williams S. Audiometric notch as a sign of noise induced hearing loss. *Occup Environ Med*. 2001;58(1):46–51.

<sup>3</sup> Coles RR, Lutman ME, Buffin JT. Guidelines on the diagnosis of noise-induced hearing loss for medicolegal purposes. *Clini Otolaryngology Allied Sci*. 2000;25(4):264–73.

<sup>4</sup> Rosenhall U, Pedersen K, Svanborg A. Presbycusis and noise-induced hearing loss. *Ear & Hearing*. 1990;11(4):257–63.

ever, short exposures to very high levels of noise in occupations such as construction or firefighting may produce significant loss,<sup>5, 6</sup> and measures to estimate the health effects of such intermittent noise are lacking. When the noise exposure history indicates the use of hearing protective devices, the clinician should also keep in mind that the real world attenuation provided by hearing protectors may vary widely between individuals.<sup>7</sup>

### **The Occupational Physician as Professional Supervisor of a Hearing Conservation Program**

ACOEM believes that occupational physicians can play a critical role in the prevention of noise-induced hearing loss by serving as professional supervisors of hearing conservation programs. The Council on Accreditation of Occupational Hearing Conservation (CAOHC) offers a course for professional supervisors.

The responsibilities of such a supervisor include supervision of an audiometric technician, review of problem audiograms and determination of whether there is a need for additional evaluation, determining the work-relatedness of a threshold shift, revision of an audiometric baseline, and evaluation of the effectiveness of the hearing conservation program.<sup>8</sup> The professional supervisor should be an advocate for the “hearing health” of noise-exposed persons, and work to ensure that noise exposures are minimized both at work and during recreational activities, through avoidance of excessive noise and proper use of hearing protection when necessary.

### **Additional Considerations in the Evaluation of the Worker with Suspected Noise-induced Hearing Loss**

Clinicians evaluating cases of possible noise-induced hearing loss should keep in mind the following clinical concerns:

- While noise-induced hearing loss is typically bilateral, asymmetric sources of noise such as sirens or gunshots can produce asymmetric loss. When evaluating cases of asymmetric loss, referral to rule out a retro-cochlear lesion is first warranted before attributing the loss to noise.
- Co-exposure to ototoxic agents such as solvents, heavy metals, and tobacco smoke may act in synergy with noise to cause hearing loss.<sup>9</sup> However, the role of such cofactors—as well as the role of cardiovascular disease, diabetes, and neurodegenerative diseases—remains poorly understood. Individual susceptibility to the auditory effects of noise varies widely, but the biological basis for this also remains unclear.<sup>10</sup>
- Over a period of years of prolonged noise exposure, hearing loss due to noise expands to involve additional frequencies. This, together with the effects of aging, may reduce the prominence of the “notch.” Therefore, in older individuals, the effects of noise may be difficult to distinguish from presbycusis without access to previous audiograms.<sup>11</sup>
- Individuals with noise-induced hearing loss may experience significant morbidity due to hearing loss, concomitant tinnitus, and impaired speech discrimination. On the job, such hearing loss can impact worker communication and safety. Other conditions associated with hearing loss may be depression, social isolation,<sup>12</sup> and increased risk of accidents.<sup>13</sup> Workers with evidence of hearing loss require an individualized approach that takes into account the need to communicate safely and effectively, and the need for protection from additional damage due to noise.
- Since the loss of hearing due to noise is not reversible, early detection and intervention is critical to improving prevention of this condition. A 10 dB con-

<sup>5</sup> Lusk SL, Kerr MJ, Kauffman SA. Use of hearing protection and perceptions of noise exposure and hearing loss among construction workers. *Amer Indust Hygiene Asso J.* 1998;59(7):466–70.

<sup>6</sup> Tubbs RL. Noise and hearing loss in firefighting. *Occup Med.* 1995;10(4):843–56.

<sup>7</sup> Berger EH, et al. Development of a new standard laboratory protocol for estimating the field attenuation of hearing protection devices. Part III. The validity of using subject-fit data. *J Acoustical Soc Amer.* 1998;103(2):665–72.

<sup>8</sup> OSHA. 1910.95 CFR Occupational Noise Exposure: Hearing Conservation Amendment (Final Rule). *Fed Reg.* 1983;48:9738–9785.

<sup>9</sup> Morata TC. Assessing occupational hearing loss: beyond noise exposures. *Scand Audiology. Supplementum.* 1998;48:111–6.

<sup>10</sup> Ward WD. Endogenous factors related to susceptibility to damage from noise. *Occup Med.* 1995;10(3):561–75.

<sup>11</sup> Consensus conference. Noise and hearing loss. *JAMA.* 1990;263(23):3185–90.

<sup>12</sup> Hetu R, Getty L, Quoc HT. Impact of occupational hearing loss on the lives of workers. *Occup Med.* 1995;10(3):495–512.

<sup>13</sup> Zwerling C, et al., Occupational injuries among older workers with visual, auditory, and other impairments. A validation study. *JOEM.* 1998;40(8):720–3.

firmed threshold shift from baseline in pure tone average at 2000, 3000, and 4000 Hz (OSHA standard threshold shift), while not necessarily resulting in significant impairment, is an important early indicator of permanent hearing loss. Therefore, individuals in hearing conservation programs who exhibit such 10 dB threshold shifts on serial audiometric testing should be carefully evaluated and counseled regarding avoidance of noise and correct use of personal hearing protection.

- Age correction of audiograms is a method of age standardization allowing comparisons of hearing loss rates between populations. Applying age correction to the surveillance audiograms of a noise-exposed population results in fewer confirmed 10 dB shifts being reported. Therefore, when applying age correction to the audiometric results of an individual who has experienced a threshold shift, the clinician should consider whether in that individual a preventable noise component of hearing loss is playing a role.

#### **Research Priorities**

In an effort to shed light on some of the gaps in the current knowledge, ACOEM proposes the establishment of a research agenda for noise-induced hearing loss, and recommends research be conducted in the following areas:

- the relationship between specific noise exposures and risk of hearing loss, including impact noise, fluctuating noise, and noise at different frequencies, in order to improve protective exposure guidelines for noise exposure;
- early indicators of hearing loss, including the use of emerging audiologic technology such as otoacoustic emissions;
- the role of cofactors in hearing loss, including solvents, metals, vibration, heat, and carbon monoxide;
- the biology of noise-induced hearing loss, including the role of antioxidant compounds in prevention and recovery and whether noise damage continues to progress after noise exposure stops;
- individual susceptibility to noise-induced hearing loss, including the molecular basis for such susceptibility;
- the relationship of noise-induced hearing loss to other medical conditions, including cardiovascular disease, diabetes, and neurodegenerative diseases including age-related hearing loss;
- the impact of noise-induced hearing loss on individuals and their families and the development of rehabilitation strategies to maximize function and minimize disability;
- the behavioral aspects of noise avoidance and protection, including the effectiveness of training programs for hearing loss prevention.

#### **Evaluation of the Effectiveness of a Hearing Conservation Program**

To date, there is no universally accepted method of evaluating the effectiveness of a hearing conservation program. Hearing conservation programs include aspects of administrative controls, engineering controls, audiometric surveillance, and training. Occupational physicians can actively participate with employers in improving all these aspects of hearing conservation programs through ongoing evaluation of program outcomes and processes.

#### **Acknowledgements**

This ACOEM statement was developed by the ACOEM Noise and Hearing Conservation Committee under the auspices of the Council on Scientific Affairs. It was peer-reviewed by the Committee and Council and approved by the ACOEM Board of Directors on October 27, 2002.



Committee on Veterans' Affairs  
 Subcommittee on Disability Assistance and Memorial Affairs  
 Washington, DC.  
 March 25, 2009

Kathryn Witt  
 Co-Chair, Government Relations Committee  
 Gold Star Wives of America, Inc.  
 200 N. Glebe Road, Suite 425  
 Arlington, VA 22203

Dear Ms. Witt:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittees on Disability Assistance and Memorial Affairs and Oversight and Investigations hearing on "Document Tampering and Mishandling at the Veterans Benefits Administration" held on March 3, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Friday, April 24, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
 Chairman

---

**Questions for the House Committee on Veterans' Affairs  
 Subcommittees on Disability Assistance and Memorial Affairs  
 and Oversight and Investigations  
 Hearing on "Document Tampering and Mishandling at the  
 Veterans Benefits Administration"  
 March 3, 2009**

**Question 1:** In your experiences with your membership, has VA been successful in contacting widows and families to reinstate the month of death payments?

**Response:** When this issue was first made public, I sent messages out on the Gold Star Wives message boards informing those who receive information from the message boards of the circumstances. This message included the special phone number that the VA provided to answer questions from survivors.

I recently posted an inquiry on our message boards asking our members to respond to this question. GSW has approximately 11,000 members and approximately 1000 of them are sent messages through our message boards.

I received 32 responses, but most of those who responded were widows of those who died on active duty or widows of those who died before January 1, 1997, when the law went into effect. One response was from a widow who had received the death payment, three of those responses were from widows who were probably eligible for the death payment but did not remember whether or not they had received it, one lady who had called the VA but never received a response and one response was from a lady who the VA says has received the death payment but she has no record of receiving it.

I provided the VA contact information to those who might be eligible so they could check with the VA.

Based on the responses I received and the lack of complaints, I believe that VA has done a good job of contacting survivors who are eligible for the Death Payment but have never received it.

**Question 2:** In your testimony you recommend that the VA acquire a computer system to scan in claims and backup documents. As you know, an IT focused system would take time to set up. Even now, as the VA works toward a paperless system

for claims, this is still a long way from being operational. In the meantime, do you have any suggestions for how VA should proceed to ensure that claims and documents are properly handled and processed?

**Response:** My suggestion would be that a manual tracking system be created.

All claims and supporting documentation should be date stamped as they are received, assigned a tracking number, logged into some sort of a database (list is technically a database), those who work on the files should sign for each and every claim they handle. When they are finished processing the claim, the claim should be returned to whoever is controlling the claims database and logged back into the database as completed. The claims could then be taken to the file room and signed for by file room personnel.

If the claims processor needs to obtain further information on a particular claim, the claim file should be placed in a central suspense file according to the date that an answer is required. The suspended files should be checked daily by the supervisor to ensure that claims are processed properly and in a timely fashion.

When the additional information is received, the supervisor should return the additional paperwork and the original claim to the person who initially worked on the claim.

(Claims should never be put in an employee's desk drawer. There should be a secure central place to store claims that an employee is working on overnight or over a weekend.)

Any documentation provided as a part of the claim should be maintained with the claim even if the documentation is redundant or not needed. Once the claim is processed a true copy of any original documents should be made and the originals returned to the person who initiated the claim.

I would suggest that a PC database using Access or similar computer software be stabled to log in and track claims processing. A PC database and data entry system could be created by a programmer familiar with Access in a very short time.

I think it would help to reduce the backlog if "cut and dried" claims were processed separately. For example, a claim for DIC with all the appropriate documentation could be assigned to a newer employee and the more complex claims assigned to a senior, experienced employee.

Please understand that I have not seen how the VA claims processing system works at even one regional office. The suggested tracking and processing system is based on one used by the Army in the seventies and early 1980's before computers were common in the workplace. A computer system can be programmed to enforce these rules but a manual system depends on each employee's willingness to participate.

**Question 3:** In your testimony you spoke about the new Office of Survivors Assistance and referred to several initiatives that have been instituted to assist survivors. In your opinion, should this be an office survivors can go to for help if they believe relevant documents have been lost or mishandled? If so how do you envision this office handling this responsibility? Also if so, do you think this office as currently planned by VA will be able to handle this function?

**Response:** The VA Office of Survivors Assistance was not created to accommodate this function and is not staffed to accomplish this function. Complaints about document tampering and mishandling of documentation and claims should be first addressed to the VA Regional Office that processed the original claim and documentation. The Director of each Regional Office should have an employee who is responsible directly to the Director assigned to handle such problems and complaints. If this employee is not able to resolve the issue, then the survivor should be referred to the VA Inspector General's office.

The Office of Survivors Assistance is located in Washington, DC. The person who initially pursues these issues would probably need to be co-located at the Regional Office which processed the claim or documentation.

Kathryn A. Witt  
*Co-Chair  
 Government Relations Committee  
 Gold Star Wives of America*



Committee on Veterans' Affairs  
 Subcommittee on Disability Assistance and Memorial Affairs  
 Washington, DC.  
 March 25, 2009

Marilyn Park  
 Legislative Representative  
 American Federation of Government Employees, AFL-CIO  
 80 F Street, NW  
 Washington DC 20001

Dear Ms. Park:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittees on Disability Assistance and Memorial Affairs Oversight and Investigations hearing on "Document Tampering and Mishandling at the Veterans Benefits Administration" held on March 3, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Friday, April 24, 2009.

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Sincerely,

John J. Hall  
 Chairman

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**Questions from the House Committee on Veterans' Affairs  
 Subcommittees on Disability Assistance and Memorial Affairs  
 and Oversight and Investigations  
 Hearing on "Document Tampering and Mishandling at the Veterans  
 Benefits Administration"  
 March 3, 2009**

**Question 1(a):** What process is used to determine if an employee has intentionally engaged in improper shredding?

**Response:** As best I can tell, it is made by interviewing the involved employee and the nature of the allegations, and to what level a document was improperly shredded.

**Question 1(b):** Who makes the decision?

**Response:** Decisions are made initially by local officials who, at some point, may defer to the jurisdiction of OIG if there is reason to believe that the improper activity has criminal implications.

**Question 1(c):** When does central office get involved and what guidance do they provide?

**Response:** As far as I know, the director is required to notify CO on all allegations in a report and CO may drive the boat on what to do, but the director could influence that decision. If there is a suspicion of impropriety at some point in time OIG may be called in to investigate any investigation resulting from improper document handling. But more generally, AFGE has no idea when CO becomes involved in this process or what guidance CO may relay to local managers either in a general sense or in any particular instance since such information is generally not shared with AFGE. However, when documents are found that have been misplaced there are some stringent reporting and tracking requirements concerning how those documents are ultimately routed to the proper location, and how any claim(s) attendant to those documents are ultimately resolved. VBA officials would be better suited to detail those requirements.

**Question 1(d):** What is the evidentiary standard for employee misconduct?

**Response:** It seems like very little evidence is required to allege employee misconduct, as we have seen in an internal case where a reprimand was issued and sustained with little direct evidence, only hearsay.

More generally, the evidentiary standard for employee “misconduct” depends on the nature of the alleged misconduct and the forum of any dispute concerning the alleged misconduct. Clearly, if there are criminal charges brought by OIG as a result of improper document handling, those allegations would be resolved in a court of competent jurisdiction and the standard of proof would be beyond a reasonable doubt.

If the alleged misconduct is used as the basis for an adverse or disciplinary action having impact on employment, the standard of proof is, for the most part, whatever the Agency decisionmaker feels is appropriate. AFGE has little recourse in such matters at the Agency level, and ordinarily has to seek the intervention of an arbitrator or other appropriate labor relations dispute mechanism to ensure that Agency decisions concerning allegations of misconduct are not arbitrary and capricious.

**Question 2(a):** Were employees properly trained or made aware of the VA’s policy on shredding documents outlined in the M-21-1b previous before the news report?

**Response:** No way, very little information was given at first and when information was given, it was confusing and hard to follow. Employees were most certainly not trained or specifically advised of any particular policy on the shredding or proper handling of documents prior to news reports of improper document handling.

**Question 2(b):** What does the AFGE think of the VA’s new policy on shredding?

**Response:** Unfortunately, it seems to be a waste of time and manpower. Nothing is really accomplished. It seems to be an overreaction, rather than a real solution, and fails to address the root of the problem. The VBA is overworked and the offices are understaffed. The shredding incidents were a direct result of VA’s focus on production, not on quality or creating a fair workplace.

More generally, AFGE’s position is that all relevant documents pertaining to veterans’ claims must be preserved and properly addressed in each and every instance. VA’s new “policy” on shredding, however, does little to ensure such an outcome since it provides no real guidance concerning what documents have evidentiary value, and employees have not been adequately trained concerning why some documents have evidentiary value.

Ultimately, the shredding “crisis” that recently came to light is the product of several misguided policies. First, VA’s historical insistence of quantity over quality in the claims process and a refusal to sacrifice short-term productivity for the long-term gains in productivity and quality by properly and effectively training employees led to some ignorant, but not malicious, decisions concerning the handling of particular documents.

Second, unrealistic, arbitrary and capricious production standards imposed upon employees actually provided them with incentives to take any shortcut available to meet their performance standards in order to keep their jobs.

Third, VA created a culture of productivity over quality, and management turned a blind eye toward any deficiencies in the claims process (including improper handling of documents) so long as productivity goals were being met or exceeded.

Finally, VA engineered a claims process (specifically, the “CPI model”) that minimized accountability of individual employees and made them responsible only for minute and discrete actions in the claims process, thereby virtually ensuring that defects at any stage of the process could go unnoticed and unaddressed with no specific employee being held accountable for mistakes, and no employees being trained concerning how to correct recurrent mistakes.

**Question 3(a):** In your testimony, you discussed further investigation into the efficacy of VBA’s brokering policies and suggested soliciting input from frontline employees and their representatives. What advice would you give VBA in improving the claims processing system?

**Response:** AFGE suggests that Congress mandate that an independent investigation be undertaken concerning the efficacy and cost-effectiveness of VBA’s brokering policies. Our members almost uniformly report the impression that brokering cases from one Regional Office to another decreases the quality of work product, results in needless duplication of effort, often delays proper adjudication of claims, and presents unnecessary opportunities for losing or misplacing important documents.

AFGE has anecdotal evidence that most VBA managers, including Regional Office Directors, have serious reservations about the wisdom of brokering of cases. Moreover, VBA recently contracted with Booz Allen Hamilton to develop strategies to improve the claims process and their preliminary findings seem to indicate that the more a claims file is moved from one place or person to another *within* a Regional Office, the greater the likelihood of loss of documents, delay in proper development

of evidence, and improper resolution of claims. Incredibly, when AFGE asked VBA management during a briefing on the Booz Allen Hamilton findings whether any consideration had been given to the implication of those findings vis-à-vis brokering of cases *between* Regional Offices, management was unwilling to consider that larger implication.

**Question 3(b):** What advice would you give VBA in improving the claims processing system?

**Response:** The VBA claims process can be improved by increasing accountability for claims processors and making them jointly responsible for the ultimate product of their joint efforts. VBA should either abandon or seriously modify the CPI (Claims Processing Initiative) that was initiated approximately 8 years ago and that is responsible, at least in part, for the diminished quality and increasing claims backlog that VBA faces today. AFGE notes that Booz Allen Hamilton seems to have reached a similar conclusion, and that VBA plans to pilot a test of an improved claims processing model at several locations in the near future. **AFGE respectfully requests that Congress inquire directly of VBA concerning the import of this pilot project and the findings which drove it, since AFGE's requests to management for further information are too often met with inaction.**

**Question 4:** You refer to VBA's policy on brokering cases as an "assembly line" approach to developing and adjudicating claims. Furthermore, in your testimony you are critical of a new brokering process using newly created Appeals Resource Centers. In your opinion, how could VBA implement a new system that would adequately address the concerns you have raised in your testimony?

**Response:** First, AFGE believes that Appeals Resource Centers represent the highest evolution of the folly VBA's brokering policies. These Centers are designed to accept and process claims in various stages of the appeals process and return them to the Regional Offices with original jurisdiction over the claims upon completion by a Rating Specialist of a Rating Decision, Statement of the Case, or Supplemental Statement of the Case. In effect, Appeals Resource Centers have the perverse impact of utilizing VBA's most highly experienced, trained and skilled adjudicatory personnel—Decision Review Officers—to develop evidence so that less experienced Rating Specialist can render a decision based upon that evidence.

Appeals Resource Center brokering guidelines are so stringent that they require Decision Review Officers or highly paid managers to waste an inordinate amount of time locating cases that can be brokered. If the Rating Specialist at an Appeals Resource Center determines that a favorable decision is not warranted, they prepare a Statement of the Case, or Supplemental Statement of the Case and the file is returned to the Regional Office of original jurisdiction over the claim for certification to the Board of Veterans' Appeals as necessary. Unfortunately, that certification must in most instances be done by a Decision Review Officer at the Regional Office of original jurisdiction who then has to review the entire claims file yet again, determine whether the action taken by the Appeals Resource Center Rating Specialist was correct and, if not, correct any and all underlying substantive errors prior to certifying that the case is ready for review by the Board of Veterans' Appeals.

For example, our members report instances where a Decision Review Officer has conceded a veteran's combat stressor and ordered a posttraumatic stress disorder examination which confirms the veteran has posttraumatic stress disorder related to his verified military experiences, only to have that case returned from an Appeals Resource Center with a determination from a Rating Specialist that no in service stressor has been verified and a denial of service connection for posttraumatic stress disorder. Incredibly, Appeals Resource Centers are given credit for processing that claim, even though their actions have added nothing substantive to the process and done nothing to resolve the case.

AFGE made numerous attempts to influence VBA's decisionmaking process concerning the creation of Appeals Resource Centers and was rebuffed in every instance. With no substantive input from AFGE or frontline employees, Appeals Resource Centers have been created and staffed in Waco, Texas, and Seattle, Washington with an enormous obligation of full time employees that could have been more effectively used at individual Regional Offices.

VBA has a burgeoning appeals caseload in large part due to VBA management's insistence on utilizing fewer Rating Specialists to create more low quality decisions (i.e. emphasis on quantity over quality). Instead of attempting to address the burgeoning appeals caseload by consolidating the processing of appeals at Appeals Resource Centers, VBA should be required to devote more personnel at each Regional Office to resolving appeals, and provide Rating Specialists at Regional Offices with sufficient time, training, and incentive to properly develop and decide cases in the first instance, thereby avoiding unnecessary appeals from veterans.

VBA management has a non-working model regarding the utility of centralizing processing of appeals in the form of the Appeal Management Center (AMC) in Washington, DC, which process appeals that have been remanded after review by the Board of Veterans' Appeals. Despite the fact that AMC actions are in large part directed by the Board of Veterans' Appeals, AMC has been historically ineffective in its charge. Incredibly, despite empirical evidence that appeals consolidation is not effective, anecdotal knowledge that brokering of cases in general is a bad policy, and growing independent evidence that the more a case changes hands the less efficient the claims process becomes, VBA management decided to further centralize appeals processing by creating Appeals Resource Centers.

At best, Appeals Resource Centers will merely serve to shift the burden of appeals processing to the Board of Veterans' Appeals and ultimately back to the AMC. They are the latest product of a mistaken policy hastily brought into existence in the absence of any justification concerning its effectiveness. **At the very least, Congress should require an independent study to determined how many man-hours are ultimately saved or wasted by brokering cases.**

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Committee on Veterans' Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
*March 25, 2009*

Belinda Finn  
Assistant Inspector General for Auditing  
Office of Inspector General  
U.S. Department of Veterans Affairs  
801 I Street, NW, Room 1110  
Washington, DC 20005

Dear Ms. Finn:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs and the Subcommittee on Oversight and Investigations hearing on "Document Tampering and Mishandling at the Veterans Benefits Administration" held on March 3, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Friday, April 24, 2009.

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Sincerely,

John J. Hall  
*Chairman*

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U.S. Department of Veterans Affairs  
 Inspector General  
 Washington, DC.  
 April 23, 2009

The Honorable John J. Hall  
 Chairman, Subcommittee on Disability  
 Assistance and Memorial Affairs  
 Committee on Veterans' Affairs  
 United States House of Representatives  
 Washington, DC 20515

Dear Mr. Chairman:

This is in response to your March 25, 2009, letter to Ms. Belinda Finn, Assistant Inspector General for Auditing, following the March 3, 2009, hearing on *Document Tampering and Mishandling at the Veterans Benefits Administration*. Enclosed are Ms. Finn's responses to the additional hearing questions.

Thank you for your interest in the Department of Veterans Affairs.

Sincerely,

GEORGE J. OPFER

Enclosure

**Questions from the House Committee on Veterans' Affairs  
 Subcommittees on Disability Assistance and Memorial Affairs and  
 Oversight and Investigations, Hearing on Document  
 Tampering and Mishandling at the Veterans Benefits Administration  
 March 3, 2009**

**Question 1:** The Committee understands that the VA Office of Inspector General (OIG) is still in the process of creating a Benefits Inspection Division and will be developing a standardized protocol. Can this protocol be shared with House Committee on Veterans' Affairs staff before it is implemented? If not currently available, can it be?

**Answer:** We have contacted Committee staff to arrange a briefing on the Benefits Inspection Program. We plan to focus on five areas during the initial reviews: claims processing, data integrity, management controls, information security, and public contact. We anticipate reevaluating the protocols after we have completed several reviews and refining the protocols as needed.

**Question 2:** During the hearing we discussed the appropriateness and effectiveness of a 4-year cycle for inspections and the resources it would take to enhance that process. Can you provide a description of what would be a more ideal model and cycle time along with the resources it would require?

**Answer:** Funding included in the OIG's fiscal year 2009 appropriations to conduct VA Regional Offices (VARO) inspections supported the establishment of 10 full-time equivalents (FTE) positions. This allows for the completion of 12 inspections annually and all 57 VAROs within a 5-year period. To accelerate the schedule and complete all 57 VAROs within 3 years, we would need an additional 10 professional FTEs at the cost of \$2.25 million for salaries, expenses, and travel.

**Question 3:** Will the VA OIG conduct an additional review to determine whether entries in Control of Veterans Records System (COVERS) and Veterans Appeals Control and Locator System (VACOLS) accurately reflect the dates that written responses and appeals are received from veterans?

**Answer:** While both COVERS and VACOLS provide tracking capabilities for the Veterans Benefits Administration (VBA) neither system tracks specific veteran correspondence. COVERS is an application that tracks the location of folders within, and between, VBA field stations. VACOLS is the shared automated database created by the Board of Veterans' Appeals (BVA) for tracking and controlling veterans' appeals. VACOLS also tracks and monitors productivity, quality, and pending workloads.

We do not have any immediate plans to review the accuracy of dates related to written responses and appeals from veterans as reflected in VBA's systems. However, an ongoing audit of COVERS will evaluate VBA procedures and controls to track and locate claims folders. We will provide the Committee with our findings and recommendations upon publication of our report, which is expected in September 2009. Further, the Benefits Inspection Division will review the integrity of data in VACOLS and other automated systems at individual VAROs.

**Question 4:** Could the problems that we are discussing be addressed by information technology systems? We know that VA's claims processing system is paper-based. In your opinion, if VA created an electronic claims process, could these sorts of problem be prevented?

**Response:** The incidents of inappropriate shredding of certain claim-related documents by VAROs nationwide, as uncovered both by the OIG and by VBA itself, highlight a critical weakness to the paper claims process, which a paperless environment would largely address. However, VBA moving to a paperless system would not in and of itself fully address incidents of the purposeful mishandling of claim-related documents by VBA employees. Moreover, as long as many documents are received in hard copy form by VBA before being entered into an electronic system, the risk of mishandling or losing documents will still exist.

**Question 5:** Will the VA OIG investigate further the mail amnesty issue it identified in Detroit and assess the utility of this practice and why it occurs? What did the OIG find out about the significance of the records found and why they were unprocessed?

**Answer:** We do not plan to review the Detroit amnesty further although we will be alert to mail-handling procedures in future reviews and the Benefits Inspection Division will review VARO mail-handling procedures and destruction of documents during VARO inspections. VBA senior managers have advised that there will be no future mail amnesty periods due to the strengthening of new records management procedures.

We conducted limited follow-up on the amnesty issue at the Detroit VARO. We reviewed VBA reports on the results of the Detroit amnesty in July 2007 which indicated that records found were significant, including 700 claims that had not been established and 2,700 pieces of medical evidence or medical records. During interviews with the OIG, Detroit VARO staff indicated that productivity goals may encourage employees to process certain types of documents at the expense of others, which could provide the motivation to hide and/or destroy some documents.

**Question 6:** With regard to date changing, did the OIG attempt to find out whether other RO employees in addition to the Senior Veterans Service Representative (SVSR) in Boston understood their directive from management was to make the VA look on time? Does the OIG know how this came to be the impression of the employee?

**Answer:** Yes, we did attempt to find out if other VARO employees believed that they had to make VA look good. We interviewed 13 other VARO Boston employees and none of them reported the impression that they were supposed to change claim dates to make the VA look on time. In addition, our review of documentation in 355 claims folders found no indications that any other employees had the same understanding as the SVSR. The SVSR did not tell us why he felt he had to help the Veterans' Service Center (VSC) achieve the "goal to make numbers meet."

**Question 6(a):** Did OIG confine its investigation of date changes to initial claim applications? Does it plan to check notice of disagreements (NODS), Statements In Support of Claims, Evidence Submissions, and VA9 filing?

**Answer:** During our Review of VA Regional Office Compensation and Pension Claim Receipt Dates (Report No. 09-00189-81, February 27, 2009), we reviewed both rating and non-rating claims. Rating claims include initial and reopened compensation and pension claims. Non-rating claims include administrative types of claims such as dependency change, notice of death, claims for veteran burial benefits, and initial death pension claims.

The Benefits Inspection Division will be using a protocol to review the integrity of VACOLS. This includes steps to review the processing of NODS and VA Form 9 (used to initiate an appeal to BVA).

**Question 6(b):** Besides the four Regional Offices cited in your report, does the OIG intend to investigate and provide reports on other VAROs regarding date changing?

**Answer:** Yes. Given the challenges VBA has faced with data integrity, we will continue to include review claim date accuracy during ongoing and future audits. In addition, the Benefits Inspection Division will review claim date accuracy during VARO inspections.

**Question 7:** Does the OIG intend to conduct further investigation and/or produce additional reports on shredding of documents, misdating of claims and other document mishandling? What does the OIG intend to do to further investigate whether these problems are systemic?

**Answer:** While we do not plan any reviews focused solely on shredding of documents, misdating of claims, and other document mishandling, we will continue to monitor corrective actions at the VAROs during our VARO inspections and other VBA audit work. We will also continue to evaluate controls that could be potentially

circumvented by VARO staff to ensure that veterans' claims and records are promptly processed and appropriately protected.

**Question 8:** In your testimony, you inform that the Detroit VA Regional Office instituted a records amnesty and discovered 16,000 records. Are you aware of how many other amnesties were instituted in VA Regional Offices in 2007 and 2008?

**Answer:** We interviewed representatives from all four VBA Area Offices. The Eastern and Southern Area Offices confirmed that they were aware of amnesties that occurred within their areas in the past. We also learned of the amnesty that occurred at the New York City VARO in December 2008 that recovered 717 documents from VARO employees. VBA senior managers have advised that there will be no future mail amnesty periods due to the strengthening of new records management procedures.

**Question 9:** Did the OIG attempt to find out why employees from the Boston VARO, also believed that that they understood that their obligation was to make VA appear as if it was timely processing claims when in fact it was not?

**Answer:** Only one Boston VARO employee stated he entered inaccurate claim receipt dates in VBA's automated computer system because he had a "general impression" of responsibility to help the VSC achieve the "goal to make numbers meet." That employee did not say why he felt that way. The employee's supervisor told us that he had never instructed staff to use inaccurate claim receipt dates in VBA's automated computer system. In addition, no other employees interviewed stated that they used inaccurate claim receipt dates.

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Committee on Veterans' Affairs  
Subcommittee on Disability Assistance and Memorial Affairs  
Washington, DC.  
March 25, 2009

Michael Walcott  
Deputy Under Secretary for Benefits  
Veterans Benefits Administration  
U.S. Department of Veterans Affairs  
Washington, DC 20420

Dear Mr. Walcott:

Thank you for testifying at the House Committee on Veterans' Affairs' Subcommittees on Disability Assistance and Memorial Affairs Oversight and Investigations hearing on "Document Tampering and Mishandling at the Veterans Benefits Administration" held on March 3, 2009. I would greatly appreciate if you would provide answers to the enclosed follow-up hearing questions by Friday, April 24, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Megan Williams by fax at (202) 225-2034. If you have any questions, please call (202) 225-3608.

Sincerely,

John J. Hall  
Chairman

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**Questions for the Record**  
**Hon. John J. Hall, Chairman**  
**Disability Assistance and Memorial Affairs Subcommittee**  
**House Committee on Veterans' Affairs**  
**March 3, 2009**  
**Document Tampering and Mishandling at the Veterans Benefits Administration**

**Question 1:** Please provide the VBA 90-day review findings/report on its new shredding policy to the House Committee on Veterans' Affairs when it is completed.

**Response:** On March 8, 2009, the Office of Field Operations requested feedback from each regional office (RO) on the effectiveness of the new shredding procedures. The ROs identified a few issues and recommended additional training be provided to RO employees on those issues. They also indicated that the new procedures were working, but were labor intensive. We will conduct another review after 180 days.

**Question 2:** How many employees in each RO who had been processing claims are now assigned instead to monitoring shredding? Is the VBA using new hires for this activity or are you drawing from the existing workforce?

**Response:** To ensure adherence to the established policies and guidelines, the Veterans Benefit Administration (VBA) created two positions to oversee the management of Veterans' records, the records management officer (RMO) and the division records management officer (DRMO). Each RO is required to have one full-time RMO; larger regional offices may have more than one. The DRMO is a collateral-duty assignment with one DRMO assigned to approximately 15–20 employees. The DRMO reviews all paper identified by the employees for shredding. On December 31, 2008, all ROs certified that all RMOs and DRMOs were in place.

Most of the RMO positions were filled with existing VBA employees. The majority of those selected for the RMO positions were not claims processors. ROs were authorized new full time employees to replace losses created by filling the RMO position.

**Question 3:** During the Hearing Mr. Walcoff indicated that sending files through the mail is not the primary way that files are lost. Please identify the primary way that files are lost?

**Response:** The Department of Veterans Affairs (VA) does not track the reasons that caused a folder to be missing, nor does VA know in all cases what exactly happened to a folder unless it is subsequently located. We do know that claims folders are misplaced due to a number of reasons, including:

- Folder lost when transferred between locations, including VA medical centers, the Board of Veterans' Appeals, etc.
- Folder status not updated in the VBA folder tracking system, control of Veterans records system (COVERS).
- Folder misfiled and not in numerical order in file bank.
- Folder sent back to wrong RO by outside facility.

**Question 3(a):** Please inform the Committee on how many files are lost annually between different VBA offices and/or medical centers?

**Response:** VA does not have information in our data systems on the dates misplaced folders are rebuilt so we are unable to provide the number of files lost annually. Many folders that are identified as missing or rebuilt are subsequently located.

**Question 3(b):** What is done to rebuild and reconstruct files? Whose duty is it to rebuild and reconstruct files lost by VA?

**Response:** VBA is responsible for rebuilding the claims folder and makes exhaustive attempts to locate missing claims folders. If all attempts fail, VBA creates a rebuilt folder and attempts to obtain pertinent information to support the claim from the Veteran, Records Management Center, and/or Veterans Service Organization (VSO) that assisted with the original claim. The first step in rebuilding a claims folder is gathering all available electronic records, including claim documents and Veteran information stored in VBA applications and electronic medical records from the Veterans Health Administration. If critical evidence such as a Veteran's service or medical records is lost, VA requests alternative documents to support the claim for benefits. For example, VA can request a search of military unit sick logs, morning reports, or Surgeon General Office reports for records of military hospitalization. Additionally, VA will ask the Veteran for any alternative records that may contain some evidence to support the claim for benefits. Such evidence may include statements from other servicemembers, letters written during service, photographs taken during service, State or local accident reports, private medical reports, prescription records, or insurance examination records.

**Question 3(c):** How do lost files and documents impact claims adjudication?



**Response:** VA tries to minimize the impact on claims adjudication as much as possible. If all attempts to obtain pertinent evidence fail, as mentioned in 3 (b), service connection can often be established without complete service or medical records. Pursuant to 38 C.F.R. § 3.102, a broad interpretation of the law is applied, and any reasonable doubt is resolved in favor of the Veteran. There are also several disabilities for which a statutory or regulatory presumption of service connection is available for certain Veterans (*e.g.*, in-country Vietnam service, former prisoner of war status). Even in the absence of any medical evidence establishing a connection between the disabilities and military service, the disabilities can be service connected if the criteria for invoking the presumption are satisfied. The goal of VA remains to ensure that Veterans receive the benefits to which they are entitled as soon as possible.

**Question 4:** How are files tracked and a document chain of custody or responsibility established?

**Response:** VA uses COVERS to track the location of claims folders within and between offices. VA uses the VETSNET corporate applications, share, and modern award processing-development (MAP-D) to track individual documents requested, received and associated with a claims folder. All three systems create an audit trail by maintaining a record of the individuals who took actions on each case. Guidelines on maintaining audit trails on documents and tracking claims folders are included in our administrative procedures and claims adjudication manuals, as well as user's guides for the specific applications.

**Question 5:** As a result of this experience with shredding and the difficulty the VAOIG had in tracking claims, will VBA institute a consistent policy of tracking a claim to an individual employee?

**Response:** VA uses several computer applications to record the location of a claims folder, the status of a claim, and the documents received regarding the claim. Each of these applications records the individual who received a claim folder, established a claim, updated the status of a claim, and developed or took adjudicative action on a claim.

**Question 6:** What are the consequences to employees when a file is lost under their control? What about the managers? How is their performance measured when folders or documents go missing from their control? Do they still receive bonuses?

**Response:** If a claims folder or document is intentionally destroyed by an employee, punishment up to removal from their position is authorized. This applies to both employees as well as managers in VBA. An employee or manager may also be subject to criminal sanctions, including imprisonment and fines, under title 18, United States Code, if he or she willfully and unlawfully destroys such files.

Veteran service representative (VSR)/rating Veterans service representative (RVSR) performance standards include an element on workload management. Failure to properly follow COVERS procedures, as well as misplacing or losing documents, can affect the employee's performance evaluation under this element. A less than satisfactory rating in the workload management element results in a lower overall performance evaluation. Since bonuses are based on performance, a less than fully satisfactory evaluation will not result in a performance bonus.

**Question 7:** It sounds like your new policy has VA waiting for veterans to self-identify if they think their documents were lost or destroyed. How will veterans know that they were affected by these errors? Have you contacted the veterans or other claimants whose documents were found in the shredder bins and informed them of what has happened?

**Response:** VA notified Veterans and other claimants or beneficiaries of the policy by issuing news releases, meeting with VSOs, and posting a special questions and answers page on the VBA Web site. VA analyzed all of the documents found in shredder bins to determine appropriate action, but did not contact claimants whose documents were found because all documents requiring action were placed under control and processed with top priority.

**Question 8:** What criteria did VA use in selecting the members of the Records Control Team (RCT), and what are their responsibilities?

**Response:** Members of the records control team (RCT) were employees with extensive experience in the handling of Veterans' records and government forms. All employees were knowledgeable of Records Control Schedule Veterans Benefits-1, Parts 1 and 2, MP-4 Part X, Records Control Schedule—Budget and Finance, VA Directive 6371, Destruction of Temporary Paper Records, VBA's existing directives and guidance in managing records and forms. The RCT members were instructed to review existing materials, provide revisions to the existing directives and policies, and strengthen procedures for the proper handling and shredding of documents determined to be appropriate for disposal.

**Question 9:** How did VA notify veterans about the 18 month amnesty for possible shredded documents? Do you believe this was sufficient? What other outreach actions are being planned by the department?

**Response:** On October 16, 2008, VA issued a news release to initially notify the public of the document-shredding incident. On November 17, 2008, VA issued a second news release, which provided more information about the incident and directed inquiries to VA's toll-free number and Web site. Reuters (PRNewswire-USNewswire) and a number of military and Veteran organizations also covered this information. Additionally, VA worked with the six largest VSOs in developing special temporary procedures for processing claims from Veterans, family members, and survivors whose applications for financial benefits from VA may have been mishandled by VA personnel. In turn, these VSOs conveyed the information to Veterans. At this time, VA does not plan any additional outreach actions.

**Question 10:** Please further elaborate on VA's response to the claims made by the AFGE during the hearing that the current policy for shredding documents only provides incentives for employees to keep extraneous material in the claim file?

**Response:** The recently established policies and procedures do not, in any way, encourage employees to maintain extraneous paper documents in claims records. Past policy on folder maintenance, in which employees are responsible for removing duplicate copies of documents unless they contain notations of record value and removing documents if they have served their purpose and have no record value (i.e., routing slips, diary slips, etc.), remains in effect.

**Question 11:** How does the new document handling procedure as identified by VA in October 2008 to the Committee, impact claims processing—i.e., is it making it more efficient? Has the VA assessed the adequacy of the VBA's document handling and chain of custody procedures to prevent document tampering and destruction as outlined under the M-21-1s. Please describe this process for the Committee. Does it intend to maintain these procedures (as identified under the M-21-1s) and how do these correlate to the newly implemented procedures?

**Response:** The new document handling procedures require additional steps for VBA employees to properly dispose of documents. The additional administrative time has a slight impact on claims processing, but is necessary to regain the public's trust and ensure accountability of our staff. Access to shredders, shredder bins, or other methods of document destruction is strictly controlled and limited to authorized individuals. VBA also added two positions, the RMO and DRMO, to ensure the management and safeguarding of veterans' records.

The new procedures build on the standards currently established in the manuals and the records control schedule (RCS) and add an additional layer of document review to ensure proper policy enforcement. The policy changes include the plan of action discussed with the Committee on March 3, 2009, and the release of VBA Letter 20-0863, *VBA Policy on Management of Veterans' and other Governmental Paper Records*. Special training covering the proper handling and disposal of documents was provided to all VBA employees in November 2008. This training provides additional clarification of what documents employees can remove from a claims folder and properly eliminate. VBA Letter 20-08-63 was revised on March 13, 2009, to provide additional guidance for the maintenance, review, and appropriate destruction of paper records.

To ensure these procedures are adhered to in all offices, regional office directors must conduct an annual review of their stations' control procedures to access compliance with VA new document handling procedures.

**Question 12:** Does VA intend to examine whether its current system for processing claims emphasizes quantity at the expense of quality—despite VA's contention that its current employee evaluation system ostensibly measures quality?

**Response:** Current individual performance standards for claims processing employees equally weigh production and quality. VBA has recently established a workgroup to review the VSR performance standards. The workgroup is developing a new standard to align individual performance with organizational goals. The instructions to the workgroup directed them to ensure that quality be weighed equally to production.

**Question 13:** Please inform the Committee of any recent pilot(s) that VA intends to conduct that deviates from the CPI Model of claims processing, particularly at the Little Rock, Arkansas RO?

**Response:** VBA recently partnered with the Booz Allen Hamilton consulting group in a study aimed at assessing the claims development process. Booz Allen Hamilton developed process and organization recommendations to streamline the claims flow, reduce cycle time, and improve quality. The group submitted a model which represented a holistic approach to claims processing, incorporating fundamental process and organizational improvements. This model, by focusing on claim

flow and eliminating or reducing non-value-added activity, predicts a reduced claim processing cycle time. In addition, it is anticipated that this model will reduce claims folder moves, which will also improve quality by eliminating opportunities for errors.

VBA plans to pilot this concept at the Little Rock RO in the third quarter of fiscal year (FY) 2009. Booz Allen Hamilton is currently working with VBA to develop a pilot plan that outlines the purpose, scope, level of effort, timing, schedule, milestones, and deliverables associated with implementing this pilot to support a team-based claims processing concept. In addition, this pilot will also capture claims processing requirements relevant to the paperless initiative (documenting lessons learned and best practices to support additional pilot activities and/or future implementation activities).

**Question 14:** What do you do when the claimant has a return-receipt-requested slip, but the RO cannot find the information? How do veterans know that all of the records that they submitted were actually reviewed? What is VA doing to ensure that our Nation's veterans can have some confidence that claims that have been denied were at least denied on the basis of a complete record?

**Response:** Upon accepting evidence or applications in person from claimants, VA employees will prepare a document receipt register on which the name and claim number of the individual(s) from whom documents were received, the date, the general type of evidence received, such as applications, medical evidence, financial evidence, dependency documents, or other, and the name of the employee who received the documents are recorded. These registers may be paper or electronic. When possible, VA employees provide a photocopy of the evidence or claim to the individual from whom it is received. If a claimant presents VA with the document receipt slip and the evidence or application cannot be found, we will accept the receipt as submission of the claim/evidence.

VA is committed to the preservation and appropriate handling of all documents submitted by claimants and their representatives. VA developed special procedures to assist Veterans and their families to determine if evidence was previously submitted, but was not properly acted upon and retained in the Veteran's records. Veterans and others who are concerned about missing documents may contact VA on our toll-free number, 1-800-827-1000, or send an e-mail inquiry through IRIS@va.gov. Claimants may also review their claims folder at the local VA regional office. VA electronically tracks documents for currently pending claims and can verify receipt of any document through our tracking system. VA also retains all claims applications and supporting documents in the veteran's claims file. Public contact representatives will review all VA's record systems to verify receipt of applications and supporting evidence.

VBA rating decisions include a listing of all evidence considered in conjunction with the decision. VA is required by law to include a summary of the evidence considered in any decision denying a benefit. In addition, as required by section 221(b) of Public Law 110-389, VA established a pilot program at 10 ROs in December 2008 that provides Veterans with an easy-to-read checklist that lists the information or evidence that claimants must submit to support their claims.

**Question 15:** During the hearing of March 3, 2009, the AFGE testified that many new hires are being fired during their probationary period. Please provide the total number of new hires brought on for production purposes and the number of new hires who are fired during their probationary period. Please explain how this impacts the processing of disability claims.

**Response:** VBA recently conducted a review of the attrition rates of probationary employees in the VSR and RVSR job categories. Our analysis shows that VBA does not terminate a high number of employees during their probationary period.

- FY 2007
  - 1,367 claims processors hired
  - 12 (1 percent) terminated
  - 49 (3.6 percent) resigned
- FY 2008
  - 1,785 claims processors hired
  - 37 (2 percent) terminated
  - 110 (6 percent) resigned
- FY 2009 (through February)
  - 327 claims processors hired
  - 5 (1.5 percent) terminated
  - 6 (1.8 percent) resigned

VBA strives to recruit and select candidates for claims processing positions who meet the experience, knowledge, skill, and ability requirements necessary to successfully perform in these positions. Claims processing is complex, and the type of

work involved is not a good fit for every candidate selected. VA makes every effort to provide probationary employees with the opportunity to develop and demonstrate their proficiency. However, if after full and fair consideration, it becomes apparent an employee's performance and/or conduct is not suitable for satisfactory work, VBA will exercise its right to terminate employment during the probationary period in compliance with all rules and guidelines set by the Office of Personnel Management and in adherence with all negotiated labor agreements.

**Question 16:** The VAOIG recently issued a report that indicated that the VBA does not conduct quality assurance reviews on brokered claims. How does VBA track the custody of brokered claims internally? How does the VBA intend to track the quality of brokered claims?

**Response:** VBA tracks custody of brokered claims through the use of COVERS and spreadsheets. To separately sample brokered work apart from work sampled for national quality review from the regional offices, systems and procedural enhancements were necessary. Additional resources were also needed to support the expansion. VBA will begin sampling the work completed from 10 designated brokered sites during the third quarter of FY 2009. Current systematic technical accuracy review (STAR), rating-related sampling and review procedures will be employed with the brokered work. Brokered work accuracy reports will be generated in addition to the existing STAR accuracy reports.

**Question 17:** In VA's oral testimony, it mentioned a lead systems integrator (contractor) as well as a contractor with which VA is working with on business transformation.

Please identify the lead systems integrator and the business transformation contractors respectively. Please describe the role of each of these entities in helping VA reach its key performance measures and strategic goals as outlined in the latest Performance and Accountability Report.

**Response:** Lead system integrator contractor (LSIC) awarded September 30, 2008, to Electronic Data Systems (EDS). The LSIC is responsible for the overarching technology design for VA's paperless delivery of Veterans benefits Initiative (paperless initiative). The LSIC is responsible for assisting VA with defining the system that will support paperless claims processing and benefits delivery. This includes eliciting and documenting business requirements and producing specifications for the technical architecture to serve as the engineering blueprint for the envisioned system. The LSIC is also responsible for communicating the vision for the technical system and assisting VA in procurement of application developer contractors to build the system components, install and integrate components into the overall system, as well as test, operate, maintain, and transition the system solution to VA. In developing the overall program, the LSIC will segment the activities into separate releases, which will be competitively contracted by VA. The LSIC will assist VA and manage the execution of these application development contracts to meet overall program objectives.

Business transformation contractor (BTC) awarded February 12, 2009, to Booz Allen Hamilton. The BTC contractor will assist VBA in business process re-engineering, organizational change management, workforce planning and organizational learning strategies to ensure VBA is well-positioned to take best advantage of the technology solutions being developed by the LSIC. In addition, the BTC will assist VBA in determining and documenting appropriate and measurable performance metrics to be achieved by the overall technology and business process transformation envisioned as part of the initiative. These metrics will be aligned with, and supportive of, those measures outlined in the annual Performance and Accountability Report. The BTC and LSIC, as well as VBA's strategic program management partner, MITRE Corp., are integral members of the cross-functional implementation team. These industry leaders provide the requisite expertise to support VA in achieving its vision of a world-class benefits delivery system for our Nation's Veterans and their families.

**Question 18(a):** In December, you gave us a month-of-death action plan that showed by February 2009, VA would have identified retroactive beneficiaries and determined payment procedures. Where are you in that process? Has VETSNET been updated?

**Response:** VA has identified over 260,000 surviving spouses who received the month-of-death benefit. On December 29, 2008, VA identified and made payments to 10,856 surviving spouses. On March 2, 2009, VA made additional payments to 35,669 surviving spouses. VA continues to mine data to identify any surviving spouses who did not receive the month-of-death payment. An interim process for automating these payments will be deployed within the next 60 days, with a permanent solution to follow in 2010.

**Question 18(b):** What has been done to determine how VA will handle the disbursement of the benefit if the surviving spouse has subsequently died as well?

Will the benefit go to the estate?

**Response:** A January 2009 VA General Counsel precedent opinion 1–2009 held that the month-of-death payments are not payable to the estates of deceased spouses who would have been entitled to retroactive month-of-death payments but for their death prior to receipt.

**Question 19:** In their testimony, the Disabled American Veterans suggested that Imaging Centers be established. Has the VA explored this option further or developed budget projections?

**Response:** VBA currently conducts scanning and indexing activities at each of the three pension management centers to support pension claims processing. In addition to pension work, the St. Paul Pension Management Center is also performing limited scanning services for the paperless disability evaluation system pilot for claims originating from the National Capital Region. Additionally, VBA uses contract services to perform scanning activities in support of paperless benefits delivery at discharge claims processing.

As part of the development of the paperless initiative, several options for document scanning are being evaluated. Among the options to be evaluated are mail processing centers, including scanning and indexing operations. VBA continues to develop a strategy that incorporates industry best practices for the receipt and imaging of incoming mail. VBA is in the process of establishing a business transformation lab (BTL) at the Providence RO to allow the organization to leverage lessons learned in our current scanning operations as well as to test new concepts and processes that will be enabled by the implementation of the new technology platform being developed by the LSIC. The BTL will enable the organization to continue to define how scanning and indexing, as well as other business process improvements, should be conducted as we move forward with the implementation of the paperless initiative.

**Question 20:** At the hearing we discussed mail amnesty periods. Can you provide more details and background on this practice and the scope of its use in processing claims? Do you feel that mail amnesty is crucial to the process of getting the correct paperwork back in the system? What kind of controls are going to be put in place to ensure that documents/paperwork is being processed and not shredded, destroyed or otherwise mishandled—that they will be used to properly and fairly adjudicate claims?

**Response:** “Mail amnesty” was used in rare instances to ensure all mail was properly associated with Veterans’ claims for benefits no matter how long they were pending. Employees were granted “amnesty” to bring mail located at their desks to a centralized location. The new procedures implemented require employees to keep all mail out in the open. Periodic checks of an employee’s work area are conducted to ensure there is no mail in cabinets or desk drawers. With the new procedures in place, there is no need for future mail amnesty.

**Question 21:** During the hearing, Gold Star Wives suggested that VA actually call survivors when needing to retrieve funds. Has VA explored this possibility and what was the conclusion?

**Response:** VA’s electronic records include the name of the surviving spouse only if the Veteran received additional benefits for them. Also, VA’s electronic records do not always contain the Veteran’s telephone number.

Currently, after VA receives information about the death of a Veteran beneficiary, VA’s Debt Management Center promptly sends notice to the Veteran’s estate about the need to return funds sent or deposited in the Veteran’s name. In keeping with Department of Treasury procedures, some banks also automatically return payments issued to a deceased beneficiary.

In order to conform to 38 U.S.C. § 5310 and Treasury procedures, VBA plans to pay the full month-of-death benefit in the name of the surviving spouse for the month in which the Veteran died. VBA is developing system changes to ensure all next of kin, regardless of debt status, automatically receive notification providing information on entitlement to month-of-death benefits for surviving spouses as well as emphasizing the need to return funds issued in the Veteran’s name.

**Question 22:** What have you done to ensure that STAR takes into account the types of document handling errors? Will STAR evaluate each RO for how long it takes to get mail under control?

**Response:** STAR’s primary focus is to evaluate the accuracy of the decision made on a Veteran’s claim, and as such, is outcome-oriented. STAR has not traditionally focused on internal VBA work management processes or timeliness, but in October 2008, the STAR process was expanded to include a review of accuracy of the date

of claim established for work control purposes. This review is accomplished for every case sampled for national quality review.

As part of VBA's quality assurance oversight program, VBA conducts site visits of ROs to ensure compliance and consistency. As a part of these site visits, the team conducts audits of employees' desks to ensure compliance with the safeguarding of Veterans' records. They also conduct random reviews of mail processing to ensure appropriate handling. Another integral part of the site visit is extensive analysis and assessment of the average time it takes the RO to place mail under control. For any problems identified, the team makes recommendations for correction and improvement.

**Question 23:** VA has noted that STAR is not necessarily reviewing a valid sample of cases. What is being done to improve your quality oversight program particularly as outlined in P.L. 110-389?

**Response:** STAR sampling for rating-related work from all ROs and work performed at the three pension management centers was increased during FY 2008 to achieve a statistically valid sample at a 95 percent confidence level with a 5 percent margin of error. Prior to that, STAR sampling was at a 90 percent confidence level with a slightly higher margin of error. As mentioned previously, STAR sampling will be further expanded in FY 2009 to include work completed at 10 brokered sites.

As outlined in section 224 of Public Law 110-389, VBA has contracted with an independent third party to assess the VBA quality assurance program to include validation of the purpose and methodology of all aspects of the program, and to identify potential new efficiencies and improved analysis and review techniques.

**Question 24:** When did VA first know about the Detroit Mail Amnesty and the over 16,000 documents that were turned in back in July 2007? When did VA notify Congress about the Detroit mail amnesty? What, if any, was the cause of delay in transmitting this information to Congress?

**Response:** Shortly after arriving on station, the Detroit RO Director identified an issue in the length of time it was taking to associate mail with claims folders. As a result, the Director designated a "mail amnesty" period in July 2007 to improve internal controls over claims-related mail. This was a one-time action to establish an office-wide inventory of all opened mail not attached to a claims folder. Although 15,677 pieces of mail were reviewed, approximately 9,000 required no additional action except to be filed in the claims folder. Since this was a one-time action by the Detroit RO to improve mail control, VBA did not notify Congress.

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U.S. Department of Veterans Affairs  
Office of Inspector General  
Washington, DC.  
March 26, 2009

Hon. John J. Hall  
Chairman, Subcommittee on Disability  
Assistance and Memorial Affairs  
Committee on Veterans' Affairs  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your request for additional information for the record on the resources needed to allow for the review of VA Regional Offices (VARO) on a 3-year cycle at the March 3, 2009, hearing on document tampering and mishandling at the Department of Veterans Affairs before your Subcommittee and the Subcommittee on Oversight and Investigations.

Funding included in the Office of Inspector General's (OIG) fiscal year 2009 appropriations to conduct VARO inspections supported the establishment of 10 full-time equivalents (FTE) positions. This allows for the completion of 12 inspections annually and all 57 VAROs within a 5-year period. To accelerate the schedule and complete all 57 VAROs within 3 years, we would need an additional 10 professional FTEs at the cost of \$2.25 million for salaries, expenses, and travel.

We thank you for your interest in the OIG's work and look forward to working with you in the future. This information has also been provided to Congressman Doug Lamborn, Ranking Republican Member, Subcommittee on Disability Assistance and Memorial Affairs; Congressman Harry E. Mitchell, Chairman, Sub-

committee on Oversight and Investigations; and Congressman David P. Roe, Ranking Republican Member, Subcommittee on Oversight and Investigations.

Sincerely,

GEORGE J. OPFER  
*Inspector General*

[An identical letter was sent to Hon. Harry E. Mitchell, Chairman, Subcommittee on Oversight and Investigations, Hon. Doug Lamborn, Ranking Republican Member, Subcommittee on Disability Assistance and Memorial Affairs, and Hon. David P. Roe, Ranking Republican Member, Subcommittee on Oversight and Investigations, Committee on Veterans' Affairs.]

