

**STATEMENT OF RON GARVIN,  
ACTING CHAIRMAN, BOARD OF VETERANS' APPEALS**

**BEFORE THE**

**SUBCOMMITTEE ON DISABILITY ASSISTANCE AND  
MEMORIAL AFFAIRS**

**COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES**

**May 5, 2005**

Good morning, Mr. Chairman. It is a pleasure to discuss the operations of the Board of Veterans' Appeals with you, the members of the Subcommittee, and your staff.

The Board's testimony before the Subcommittee on Benefits in February 1994 and June 1998 provides important background information.

In Fiscal Year 1994, the Board issued about 22,000 decisions. Our pending caseload stood at 47,000, and was on its way to 60,000. Our measure of timeliness then used—average response time—was 781 days.

By Fiscal Year 1998, our timeliness had markedly improved and our pending caseload was down to less than 30,000 cases. We issued 38,886 decisions, and held 4,875 hearings. Appeals resolution time—the time from the date a veteran files a Notice of Disagreement until he or she receives a final decision on appeal—was 687 days.

I am proud to report that, since 1998, we have constantly improved.

In FY 2004, the Board issued 38,371 decisions, almost as many as were issued in FY 1998, and conducted 7,259 hearings, a substantial increase from 1998. Appeals resolution time decreased to 529 days. Our cycle time—the time that it actually takes the Board to issue a decision (excluding the time the case is with the service organization representative)—was 98 days. Cases pending at the end of FY 2004 stood at 21,430. Significantly, we accomplished these results with 440 FTE, or 43 less than we had in 1998.

These improvements over the past few years occurred in spite of several significant events, including the impact of the Veterans Claims Assistance Act of 2000, and the initiation and then termination of BVA evidence development due to

the decision of the U.S. Court of Appeals for the Federal Circuit in *Disabled American Veterans v. Principi*.

We have received much help in achieving our successes, including from:

- The Congress providing unqualified support for the appellate rights of veterans and their families.
- The veterans service organizations, who represent about 85% of our appellants.
- VA leadership that supports improvements in the appeals process to ensure that veterans receive timely and quality decisions.
- The staff at the Board, including the Veterans Law Judges, counsel, and administrative support staff. Through their efforts productivity increased, over historic levels, by 20% for staff counsel, and by 25% for the VLJs. The number of hearings held also increased, with videoconference hearings nearly doubling since FY 1998. Finally, the average number of decisions per employee increased from 49.9 in FY 1994 and 80.5 in FY 1998, to 87.3 in FY 2004.

Two of the most significant and persisting challenges we face are

- Eliminating avoidable remands, and
- Increasing productivity to contain and reduce the appeals backlog.

In regard to remands, we know that:

- Veterans want timely and correct decisions on claims for benefits. For the Board to do that, the record must contain all evidence necessary to decide the claim and show that all necessary due process has been provided. If the record does not meet these requirements, and the benefits sought cannot be granted, a remand for further development is necessary.
- Remands lengthen appeals resolution time. One remand adds about a year to the process. Remands also divert resources from processing other claims and appeals.
- We are working with VBA, OGC and VHA to identify and track root causes of remands, to provide training, and, ultimately, to

eliminate avoidable remands. The results are already encouraging, with the remand rate for the first part of FY 2005 dropping to 42.6%, as compared to 56.8% in FY 2004. For February and March 2005, the remand rate was even lower at 38.4%.

If nothing had been done, our backlog was projected to grow to unacceptable levels. The Board's backlog disposition time—the projected time it would take the Board, working at its current rate, to eliminate the backlog—would have increased from 170 days in 2004, to 391 days in 2006, and to nearly 600 days in 2008.

Through incentives and sound management we have beat our past projections, and intend to continue doing so by way of:

- **Eliminating avoidable remands:** About 75% of cases remanded are returned to the Board, which increases our workload and degrades timeliness. A 50% reduction in remands in FY 2005 could reduce appeals resolution time by as much as 25 to 30 days.
- **Strengthening our intra-agency partnerships:** Our joint training efforts with VBA, OGC, and VHA, will improve decision quality and reduce remands and appeals.
- **Writing shorter and more concise decisions:** We are training our Veterans Law Judges and counsel to write shorter and more concise decisions.
- **Utilizing employee incentive, mentoring and training programs:** A number of new programs have been introduced to increase employee motivation and satisfaction, as well as to increase productivity and decision quality.
- **Making use of overtime:** We will use overtime within existing resources to enhance productivity.
- **Increasing our use of paralegals:** We will increase the use of our paralegals for non-decisional support activities.

We believe these measures will work to reduce the backlog and shorten the time it takes for a veteran to receive a well-reasoned Board decision. Already, we have reduced the time it takes for an appeal to be finally resolved from 686 days in FY 1998, to 529 days in FY 2004. Our decision quality has improved from 88.8% in FY 1998 to 93% in FY 2004, and our cycle time is a little over three months.

In conclusion, we intend to continue working to develop new and creative solutions to the challenges we face in order to fulfill our statutory mission to hold hearings and provide timely, high quality decisions to our Nation's veterans and their families.

I would be pleased to answer any questions you or your colleagues might have.