WADING THROUGH WAREHOUSES OF PAPER: THE CHALLENGES OF TRANSITIONING VETERANS RECORDS TO PAPERLESS TECHNOLOGY

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
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CONTENTS

December 4, 2012

	Page
Wading Through Warehouses of Paper: The Challenges of Transitioning Veterans Records To Paperless Technology	1

OPENING STATEMENTS

Chairman Jon Runyan	1
Prepared Statement of Chairman Runyan	30
Hon. Jerry McNerney, Ranking Democratic Member	3
Prepared Statement of Hon. Jerry McNerney	31

WITNESSES

Richard Dumancas, Deputy Director for Claims	4
Prepared Statement of Mr. Dumancas	32
Executive Summary of Mr. Dumancas	35
Michael R. Viterna, Esq., President, National Association of Veterans Advocates	6
Prepared Statement of Mr. Viterna, Esq.	35
Executive Summary of Mr. Viterna, Esq.	40
Jeffrey C. Hall, Assistant National Legislative Director, Disabled American Veterans	8
Prepared Statement of Mr. Hall	41
James G. Neighbors, Director of DoD/VA Collaboration Office, U.S. Department of Defense	18
Prepared Statement of Mr. Neighbors	46
Scott Levins, Director of the National Personnel Records Center, U.S. National Archives and Records Administration	20
Prepared Statement of Mr. Levins	51
Alan Bozeman, Director, Veterans Benefits Management System Program Office, Veterans Benefits Administration, U.S. Department of Veterans Affairs	22
Prepared Statement of Mr. Bozeman	55

MATERIALS SUBMITTED FOR THE RECORD

Letter From: Hon. Michael H. Michaud, Subcommitte on Disability Assistance and Memorial Affairs, Committee on Veterans' Affairs - To: The Hon. Leon E. Panetta, Secretary of Defense, and The Hon. Eric Shinseki, Secretary of Veterans Affairs	59

WADING THROUGH WAREHOUSES OF PAPER: THE CHALLENGES OF TRANSITIONING VETERANS RECORDS TO PAPERLESS TECHNOLOGY

Tuesday, December 4, 2012

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

The Subcommittee met, pursuant to notice, at 2:30 p.m., in Room 334, Cannon House Office Building, Hon. Jon Runyan [Chairman of the Subcommittee] presiding.

Present: Representatives Runyan, Stutzman, McNerney, and Michaud.

OPENING STATEMENT OF CHAIRMAN JON RUNYAN

Mr. RUNYAN. Good afternoon and welcome everyone. This oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs will now come to order.

I called this oversight hearing today to discuss an important yet often overlooked aspect of the veterans benefit process, access to various service department records. Such records are often necessary and vital for our veterans to prove their claim. As Chairman of the DAMA Subcommittee, I am troubled by the information regarding the handling of the records that has come to my attention. In today's environment, as we shift from paper records to a digital environment, important questions arise regarding what the best practices are for making this transition.

For example, agencies, such as the VA and the National Archives and Records Administration, or NARA, must engage in a daunting cost-benefit analysis to determine what records should be digitized and how this process should take place. Similarly, the Department of Defense must determine the best ways to maintain digital records in various environments from DoD hospitals to combat zones. Further, all three agencies must continue to work together to ensure that veterans' records are initiated, maintained and transferred as efficiently as possible.

Today that is the aspect we would like to focus on: the efficiency of the records management process. As many of you may already be aware, the records management process begins with the DoD. Veterans depend on the DoD to properly note certain inservice events, whether in the veteran's individual service medical and

personnel records, or in the unit histories. Issues pertaining to the thoroughness of the DoD's recordkeeping have recently received media attention in light of evidence that some units were not properly documenting in-service events, such as combat-related incidents. This has been a source of significant frustration for many veterans who file claims with the VA and are dependent on such documentation to substantiate their claims.

For those records that are properly maintained by DoD, custody of certain records is turned over to the Archives, although different branches of the service have different policies and procedures. The National Archives and Records Administration maintains millions of military personnel health and medical records for discharged and deceased veterans of all services. Although the Archives recently began receiving access to digital records from the Army, they do not have full digital access to other service branches. In addition, the agency still maintains a full warehouse of paper records from older generations of veterans. All agencies that handle such vast amounts of paper know that there are challenges associated with maintaining both digital and paper records.

The Archives has recently faced some challenges with respect to maintenance and security of veterans' records. I would like to invite NARA to continue an open dialogue with this Committee so that the most effective procedures for maintaining veterans' records can be implemented.

Turning to the role of the VA, the agency has a statutory duty to assist a claimant in detaining certain records. Accordingly, it is important that we work together to ensure that the VA is able to communicate both effectively and efficiently with both the Archives and the DoD to comply with this duty.

In addition, the VA is also in the process of making important decisions about how veterans' records and claims folders are being handled in the digital environment, as they continue their transition over to the veterans' benefits management system, or VBMS.

While we all have high hopes for VBMS, we must not overlook one of its essential functions, which is the process of scanning and converting veterans' records.

Before I conclude, I would like again to emphasize that our goal here today is to ensure the entire chain of command from the DoD to the Archives to the VA handle veterans' records with the utmost care and respect. Often, a single record or notation can be the difference in whether a veteran's disability claim is granted or denied. This is why we must work together to ensure that no records are lost, overlooked or otherwise unable to be associated with an individual disability claim.

I welcome today's witnesses to continue the ongoing discussion and offer their own specific recommendations on how to improve upon the veterans' records management process, particularly now as we look to transition into a digital environment.

With that, I would like to now recognize the Ranking Member, Mr. McNerney from California, for his opening statement.

[THE PREPARED STATEMENT OF CHAIRMAN JON RUNYAN APPEARS IN THE APPENDIX]

OPENING STATEMENT OF HON. JERRY MCNERNEY, RANKING DEMOCRATIC MEMBER

Mr. MCNERNEY. Well, thank you, Mr. Chairman, for holding today's hearing about veterans' records and how the VA is managing its transition to a paperless system with new technologies.

We have all read in recent articles regarding lost, inaccurate and mishandled veterans' records at the hands of the DoD and the VA as well as the struggles in recapturing this data once its lost or improperly recorded. This is troubling and unacceptable. Congress hears complaints of lost, missing, destroyed or unassociated files all too often.

Information regarding a veteran's claim should be better protected by those in charge with its care. Accountability needs to occur at the management level, with individual employees who handle the day-to-day influx of information.

Veterans and their families should not be burdened with the responsibility of recreating lost files or providing multiple copies of records that once were in the DoD or VA's possession. I also remain troubled about the more than 1.3 million claims and appeals that are hanging in the VA's flawed processing system.

In an organization with a current management culture that often overemphasizes production over quality, it is imperative that we make comprehensive performance improvements to the system, while ensuring accurate and accountable claims outcomes for our veterans. I know the VA is taking great pains in this direction. However, today, like many veterans and stakeholders, I cannot say that I have complete confidence that the VA is in complete control of this process. I have met with too many veterans who have had to wait for years for initial decisions on their benefits. I have heard too many unfortunate stories of veterans who suffer as a result of VA temporarily closing poor performing regional offices for retraining like the Oakland regional office that serves the veterans in my district.

While the average days pending for most claims is 225 days, in the Oakland regional office, it is an incredible 425 days. I know the VA regional offices, such as Waco and Los Angeles, are experiencing similar delays. In fact, these delays are systemic because 67 percent of all claims and appeals are in backlog status, with nearly 25 percent being done erroneously.

Why the disparity? Why the protracted delays? Since 2007, the VBA has added over 11,000 processing personnel, and Congress has funded these requests; yet the backlog still climbs. The VA OIG concluded that in order to change these outcomes, the VA needs to emphasize policy guidance, compliance, oversight and workload management training and supervisory review in order to improve claims processing operations.

The year may be about to change, but the issues are the same. The backlog is just a symptom of the problem. The current system is broken and in need of a major overhaul. We need to focus on getting the claims right the first time as if do-overs were not an option. We need to get this right so that no claims are languishing and the veterans and their families and survivors get the benefits that they have earned and deserve without delay.

I am somewhat enthused actually by some of the VA's latest technology undertakings, including e-benefits and its stakeholder portals.

However, I remain concerned that, again, some of the VA's efforts move forward without direction, like a rudderless rowboat.

VA needs a comprehensive plan with a clear vision and a mission, as many of its stakeholders indicated in their testimonies. To date, we still have not received the VBA transformation plan that the VA Under Secretary Hickey promised at our hearing in June of this year. Today's witnesses will provide us with greater insights on these systemic problems, including how veterans and their dependents are harmed when the VA and DoD mishandle their documents and how improvements can be made.

I hope to hear testimony that responds and reflects the VA's solemn duty to deliver its benefits mission using world class 21st century inputs that focus on veterans instead of the processes.

Thank you, Mr. Chairman. I yield back.

[THE PREPARED STATEMENT OF HON. JERRY MCNERNEY APPEARS IN THE APPENDIX]

Mr. RUNYAN. I thank the gentleman.

With that, I would like to welcome our first panel to the witness table please.

Mr. RUNYAN. First, we will be hearing from Mr. Richard Dumancas, the Deputy Director for claims with the American Legion. Next, we will hear from Mr. Michael Viterna, President of the National Association of Veterans Advocates. And our final witness on this panel will be Mr. Jeff Hall, the Assistant National Legislative Director with Disabled American Veterans.

Gentlemen, your complete and written statements will be entered into the hearing record.

And Mr. Dumancas, you are now recognized 5 minutes for your oral testimony.

STATEMENTS OF RICHARD DUMANCAS, DEPUTY DIRECTOR FOR CLAIMS, THE AMERICAN LEGION; MICHAEL VITERNA, ESQ., PRESIDENT, NATIONAL ASSOCIATION OF VETERANS ADVOCATES; AND JEFFREY HALL, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

STATEMENT OF RICHARD DUMANCAS

Mr. DUMANCAS. Thank you, Chairman Runyan, Ranking Member McNerney and distinguished Members of the Committee. I am honored to come before you today on behalf of the 2.4 million veterans of the American Legion to discuss the magnitude of the data component in the VA and their efforts to transform the claims processing system from the 20th century to the 21st century and hopefully well into the future.

We all know America is well aware of the struggling VA claim system as a mixture of media outlets report that VA's backlog has jumped 179 percent since 2009.

With the growing backlog, the VA has been running a marathon to come up with a solution to their set goal for 2015. Veterans Benefits Management System and Stakeholders Enterprise Portal Programs do offer a glimmer of hope.

With transitioning into current century, one of the major challenges to transition veterans records into a paperless environment is scanning. The American Legion recently learned that the benefits delivered at discharge BDD program currently does not have a current contract for scanning. After hearing this, my first thought was, what is happening to those files that are not being scanned? Are they being worked like their grandparents' paper file in the 1940s? Or are they collecting dust on a shelf silently building into a monster problem?

If there is no contract for scanning and files are not being processed, veterans must be made aware that their claim is not being processed because of the lack of a contract for scanning. When asking the VA about scanning contracts, there seems to be uncertainty on the details of guaranteed contracts. If there is a long-term scanning contract available for VBMS, then why isn't there one more BDD? Or have the same contract or contractors doing the scanning for BDD? The American Legion would like to see a clear road map laying out VA's plans to transform the paper product into the digital world. We are hopeful VA will be able to shed some light on that today.

Another step in the 21st century is the promise of virtual lifetime electronic record, or VLER, between VA and DoD. The ability to maintain simple electronic records for servicemembers and veterans from cradle to grave should be a given. The American Legion urges VA and DoD to make VLER a process that is practiced within all Federal agencies that document and maintain a military record. As an example of maintaining a military record, we have relied on the National Guard and Reserve to fill for the dwindling active forces.

Over 650,000 Reserve members have deployed since September 11, 2001. We deploy them under or attached to units that are not their home units. Their records seem to be hardest to find or combine. We review rating decisions that lack the evidence of Federal medical documentation. If the Guard or Reserve member submits for compensation through VBA for the exact same condition that put them out through the medical and physical evaluation board, there should be no way the VBA can deny their claim because of lack of military records. We understand that Reserve members' medical records can be split over multiple locations, but one would want to believe that eventually they would meet up into one file. This process should be measured in days, not months or years. Any joint electronic records must help consolidate Guard and Reserve data as well.

The American Legion urges all agencies to work together to ensure that no servicemembers or veteran's information is lost or mishandled and that all information can be easily accessed by all service providers.

With a need for transition, policy rules and regulations must be clear and solid. The American Legion strongly encourages the VA central office to provide even more precise direction and guidance to the lowest level of VA employees, and to ensure problem areas, such as the following, become a priority in training: Current stats published by the VA reflect a huge difference in claims process. Why is it that Togus, Maine; St. Paul, Minnesota; Fargo, North Da-

kota; Cheyenne, Wyoming regional offices are hovering around 22 to 30 percent of their inventory pending over 125 days, but on the same report, Baltimore, Roanoke and Chicago and Oakland regional offices are stating 74 to 87 percent of their inventory is pending over 125 days. Why are these ROs' production so different?

Training must be the same across the board. Training and production of ROs, such as Togus, should be the same that is provided in the ROs, such as Roanoke. The central office should formulate a plan for the lower inventory ROs to mentor or provide best practices to the higher inventory ROs. Central office needs to enforce the best practices and highly encourage all ROs to follow their leaders.

This is for the veteran. All veterans deserve the best service for their service.

Chairman Runyan, Ranking Member McNerney and distinguished Members of the Committee, this conclude my statement and I am happy to answer any questions that you may have.

[THE PREPARED STATEMENT OF RICHARD DUMANCAS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you.

And with that, I will recognize Mr. Viterna for his testimony.

STATEMENT OF MICHAEL VITERNA, ESQ.

Mr. VITERNA. Thank you, Chairman Runyan, Ranking Member McNerney and other distinguished Members of the Subcommittee.

Thank you for the opportunity to testify today about veterans records. My name is Mike Viterna, and I am here as the president of the National Organization of Veterans' Advocates, whose members assist claimants in the appeal of VA denials of claims. I am also here as an attorney in private practice, who has dedicated my legal work to VA law. And I am here as a veteran who served 33 years of Air Force service.

NOVA applauds VA's efforts to transition from a paper-driven system of records to a digital format, and we are appreciative of this Committee's oversight of that transition. There are many reasons why this transition has to occur and occur without delay. One example is that most veterans have multiple claims and it is not unlikely that those claims will be at different stages of development in adjudication. One may be before the regional office, another on appeal to the board of veterans appeals, still another at the court. And it is quite obvious that with a single paper claims folder, that all these claims are not going to obtain the attention they deserve simultaneously.

We understand the VA is meeting with representatives of the Social Security Administration regarding their electronic record format, and we appreciate this, and we hope that they take the best practices from that system and apply it as this goes forward.

I want to talk about service records for a second. We were deeply troubled to learn from recent news reports that records from many who have served in Iran and Afghanistan were either lost, destroyed or never created in the first place. A claim for veterans' disability benefits is dependent upon accurate and complete service department records. And when those are missing for whatever rea-

son, the burden unfairly shifts to the veteran to produce other evidence. That evidence typically takes the form of lay testimony, and that is either from the veteran, the family or buddy statements. But in the end, and despite clear legal authority, VA has been hesitant to accept those statements as sufficient proof of an in-service event.

These claims depend on accurate records. And as you know under the law, a disability claim to succeed must have medical evidence for current disability, there must be evidence of an in-service occurrence or aggravation of a disease or injury, and then there must be medical nexus or linking evidence that provides this link of the claim condition to the service event.

In our written testimony, we provided several examples of how veterans can be adversely impacted if the reports are missing. In one case of note was a person who served in the 1950s. He claimed that he had various medical conditions for which he was treated while in service. He files a claim in 1990, was denied for lack of corroborating evidence. As it turns out, his records were destroyed in the fire in 1973 at the National Personnel Records Center, but the end result of all this is that, 20 years later, this case has been to the veterans court three times, and that is where it is today, and there is really no hope this matter is going to be resolved to his benefit any time soon.

NOVA would like to make the following recommendations for your consideration: The service departments must be required to maintain complete and accurate records of the personnel and unit activities, and they must provide those records to VA in a digital format for their ease of use. So we ask Congress to mandate that DoD and VA work together to facilitate this seamless transition of records. It is just critical for our veterans.

But in addition, we can't undo all that has happened, and we are suggesting that the evidentiary burden be lessened for veterans who fall into this category where the records have been lost, destroyed, remain classified today, or never created in the first place or are otherwise lost through no fault of their own.

NOVA would propose that language be added to 38 U.S.C. 1154(a) that would mimic the provisions provided in 1154(b) that is reserved for combat veterans and essentially provides that lay or other evidence shall be accepted by VA to establish incident or aggravation in service if consistent with the circumstances, conditions or hardships of such service, even if no official records exist. And this evidence may be rebutted only by clear and convincing evidence to the contrary.

In conclusion, the importance of the complete and accurate service records cannot be overstated. As you know, Congress has created a unique benefit system like no other in recognition of those who answer the call to serve and defend their country. To deny a veteran his or her disability benefits because the records are not available due to no fault of his or here own just isn't right, and it deserves this Committee's continued attention. Thank you. If you have any continuing questions.

[THE PREPARED STATEMENT OF MICHAEL VITERNA APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Viterna.

Mr. Hall, you are now recognized.

STATEMENT OF JEFFREY HALL

Mr. HALL. Thank you, Chairman Runyan, Ranking Member McNerney, and Members of the Subcommittee.

On behalf of DAV and its 1.2 million members, I am pleased to be here today to offer our perspective on how the management of the massive volume of paper records has resulted in extraordinary delays and the denial of veterans' claims as well as contributed to the enormous backlog of claims for benefits.

Mr. Chairman, the integrity of the entire benefits system is, benefits claim system is only as strong as the integrity of the evidentiary records supporting these claims. Before our veteran can be found entitled to a benefit from VA, VA must have sufficient evidence, such as proof of military service, an accurate medical history, proper documentation. And custody of service personnel and medical records is absolutely essential to the accurate and timely adjudication of any veteran's claim for benefits.

Most of the records needed to satisfy benefits claims are held primarily by Department of Defense, Department of Veterans Affairs, the National Personnel Records Center or by State National Guard units.

Additionally, there may be private medical records that are crucial to proving claims. Whenever there are problems or delays in locating any of these essential records, veterans and their families suffer. I know firsthand from my own personal military experience and as a DAV NSO for nearly two decades about the hardships that occur when records are lost, misplaced or simply can't be found.

In 1991, while serving in the Army during the First Gulf War, I was wounded in Kuwait. I was medically evacuated by the Marine Corps, operated on by the Navy and airlifted home by the Air Force. When I finally arrived at Fort Hood, I learned there was no record of my arrival, no record of being wounded and no surgical or post-op care records available.

Later, I was told my medical records were likely destroyed rather than transporting them home.

To this day, treatment reports are missing from my permanent records. Whether these missing records will one day lead to a delay or denial of any VA benefit for me or my family remains to be seen. But there are thousands of veterans that have been hurt by lost or misplaced records throughout history, a problem that has never been resolved and a problem that remains unacceptable.

Let me cite two examples from my testimony that I feel are important today. In May 2011, a Marine Corps Reservist, also an OEF combat veteran, filed his original claim for nine disabilities to include traumatic brain injury and post-traumatic stress disorder. It took 10 months simply for the VA to request the service medical records. And in August 2012, more than a year after the claim was received by VA, the service medical records still had not been obtained, and another attempt by VA would have to be made. However through the veteran's own initiative, he recently contacted his Reserve unit directly to request his records.

Sadly, the proper exchange and retrieval of these medical records didn't take place earlier because the veteran's claim has now been pending for nearly 19 months without a decision, completely unacceptable.

In another case, an Air Force veteran who served during the Vietnam war in 1967 filed his original claim for disability compensation nearly 40 years later in 2008. The claim was denied, even though VA never even reviewed the service medical records. Although the VA regional office did receive his personnel records from the National Personnel Records Center, his service medical records were lost somewhere between the NPRC and the VA regional office. Those service military records would have indicated that the veteran had been on sick call approximately 16 times, and he had even been hospitalized one time, as verified by his service personnel records. Eventually, we filed an appeal with the board of veterans appeals, and in 2012, nearly 4 years after the date of claim, the case has recently been remanded to the VA regional office for yet another attempt to obtain the records.

Mr. Chairman, vital service records can be lost at any stage. They may be lost during active duty, during transit to or from the National Personnel Records Center or while being stored at a VA regional office or the Records Management Center for the National Personnel Records Center. With tens of millions of military records housed at the National Personnel Records Center and VA offices, the maintenance and security of these essential paper files remains of the highest importance.

DoD, VA and the NPRC must focus in three areas. First, there must be immediate improvement in the management of paper records or archives. Secondly, paper records must be converted into digital records. And thirdly, there must be development of a new digital record storage and processing system.

While the problems of VBA's backlog continue to be staggering, there are signs that slow progress is being made. However, Congress must continue to oversee VBA's transformation process and must ensure that the Veterans Benefit Management System is completed and fully implemented.

In addition, DoD and VA must also work closely to create a lifelong electronic records system for all servicemembers, beginning at the moment of enlistment and including all of their military medical and personnel records and should be integrated with health records from VA as well as other public and private health care providers.

Finally, as long as there remain paper files that must be stored, transferred and preserved, VA, DoD and the National Personnel Records Center or NARA must have adequate controls in place, including regular independent audits to guaranty preservation and integrity of these vital service personnel and medical records.

Additionally, as each of those agencies converts paper records to digital files, there must be rigorous oversight and control to ensure that vital original paper records are not lost or damaged during this conversion process.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions.

[THE PREPARED STATEMENT OF JEFFREY HALL APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Hall.

And with that, we will start the round of questioning.

Mr. Hall, to go back to your testimony, the example you used right after your personal one, you said the individual went directly back to his unit to get his records?

Mr. HALL. He was not directed back to it. He had communicated through our national service officer at the regional office; throughout the process, we were keeping in him informed of what was going on. And of course, there was that delay approximately of 10 months where we finally found out a request had not even been made for the record. So essentially, what had turned out after some back and forth conversations with, say, the development team of the RO was that they had indicated if the veteran had obtained these records himself at the beginning, there wouldn't have been a delay. So it was just corroborating the fact that although they didn't indicate to him that he should get those records, it was through advice through our—which we generally give to any claimant is to—don't leave service without a copy of your records, or if in the process of a claim, if you have a way of obtaining, like in this case, can you contact your unit and get those records?

Mr. RUNYAN. And going to the end of your testimony, you talked about the systemic issues related to records management that could be alleviated with more digital technology, and obviously, what we just talked about was an example of that.

Can you try to explain that? Because one thing I'd like to bring up is that, when we do these things digitally, we know where it happened in time and place and who was at the controls of it. Can you kind of elaborate on that?

Mr. HALL. On which particular aspect?

Mr. RUNYAN. On just the systemic issues related to the records management which we could alleviate with digital technology, as I just gave that example, because where it is at and it is not that hard if you call over and say, where is this in the process?

Mr. HALL. Obviously, electronic records, digital scanning and things, the way that things are moving within VA, we believe it is inherently a good thing because there are a lot of great aspects to it, chiefly timeliness and safeguarding of the information once it has been converted digitally.

Now with VBMS and how everything ties together which is part and parcel to this, but it must be noted that when all of this system, anybody at any stage, whether it is the veteran through the e-benefits system or his service officer, as an example, will be able to tell exactly where everything is because everything has been either filed electronically, so there was no paper to begin with, which we encourage our claimants to do from the start, or it is paper that has been received from the claimant that has been scanned or digitally input into the system. But yes, one of the things I want to say is that VBMS and where it is in the stage—and I am sure we will learn more today as far as an update of where it is in the process—it has to also—not only should—we have to make sure that as we have said in the past that the VBMS needs to be completed and needs to be implemented, and of course, we will see how

that goes during the coming year with everything getting online, but it must also include the Appeals Management Center, the Board of Veterans' Appeals and the Court of Appeals for Veterans Claims, as well as the other business lines within VA. But as far as the claims process that you and I are talking about, it has to be sure that it includes those other—AMC, VBA and the court as well.

Mr. RUNYAN. Thank you.

Mr. Viterna, you mentioned the talks that VA and the Social Security Administration are having. From your knowledge of it, do you see there is anything to learn? What is the benefit of the talks, and what can we do to maybe learn from the Social Security process?

Mr. VITERNA. I don't practice Social Security law, but I have got friends that do Social Security law, I have friends that show me how simple, with their tablet, they log on to the Social Security site; they get a text on the cell phone. They have 10 minutes or so to enter a code, and they are filing documents and getting status of reports. And it is realtime and accurate and complete information. And I guess the essence of the issue is to either reinvent the wheel or to look at systems that work. I know it is not quite that simple, but they have a system that works, and to the VA's credit, I understand they are studying some of that, and I hope that it continues, and we get the best from it and build from there.

Mr. RUNYAN. Thank you.

Mr. Dumancas, how do you think the record management process for our Guard and Reservists can improved, you used the example of how their records could be in multiple places. Obviously, if it is in a digital format, it can be very much linked together. Can you expand on that a little bit?

Mr. DUMANCAS. Yes, sir. We believe that if you start an electronic record from the very beginning and everything flows into it and don't make it so it is a personnel file and a health record separate, make them one, when a—when we call the Guard and Reserve members up, it is all digitized. If they are injured in Bagram and they come to Landstuhl and they come back to Fort Carson, that it will would flow without any paper work. The health technician at Fort Carson should be able to see from Landstuhl to Bagram to say if they are from Sacramento, California, all the way from Sacramento, California, to Bagram and back, we believe it should be electronic. It would create such a short time span of waiting on our medical record, because like right now, when a Guard member or Reserve gets injured and there is a piece that is missing and they apply for it, but the VA cannot see that because DoD has it somewhere, it is more than likely that their claim is going to be denied. Or even if they come back and they have this injury, well, medical doctors cannot see that record. For instance, I see Fort Myer is my health primary care, and I was treated in Minnesota under the VA. But when I come out here, I moved out here, my doctor in Fort Myer could not see my record in the VA. So as a veteran, I am thinking, oh, well, you should be able to see it because the VLER and all this other stuff. Well, I find out that my doctor cannot see any of my records. If I had known that, I would have requested a paper copy of my file from the VA and

brought it to Fort Myer. So, by electronically, it would shorten the time span and response times and the searches for the medical records or for the personnel files.

Mr. RUNYAN. Thank you.

With that, I recognize the Ranking Member, Mr. McNerney, for his questions.

Mr. MCNERNEY. Thank you, Mr. Chairman.

Mr. Dumancas, why do you think there is so much variation in the backlog from RO to RO?

Mr. DUMANCAS. I believe it is, it could be mainly training and direction, like, for instance, the lack of, the relaxation of PTSD, a lot of the raters—not a lot of but some of the raters—I don't have a good number of them, but are confused on the direction. They are confused on the policy and the procedures, and I believe if you had one source training, where it is just the VA has like a training center, I don't know if its centrally located or divided up into the regional areas, but they are all training the exact same procedure.

Mr. MCNERNEY. Do you think the size of the ROs is strongly correlated to the backlog?

Mr. DUMANCAS. I honestly don't believe it is, because when I brought up Togus to a couple of my co-workers, they said, well, it is because Togus is small. Well, if Togus is small, but they have X amount of files, I know the VA doesn't have an over lump sum of FTEs, full-time employees, at Togus. They probably have it is calculated out to a certain amount of employees. So if Oakland has the same amount of employees versus the files percentage just like Togus, there shouldn't be a difference. And that is why I believe that policy and procedures coming down from central office to the ROs directing them would strongly assist in the process and training. I don't know if that makes sense.

Mr. MCNERNEY. It does. Of course, training and consistency is critical.

Mr. DUMANCAS. Correct. And I believe also—I know the VA, we go out to ROs, and we talk to different ROs, and I know training, it is hard now because we have the older generation—I don't mean to slam anybody for their age, but they are retiring. The well seasoned raters and trainers are leaving. They are retiring. And now we have to rely on the younger force, and they are not as seasoned as the people who are retiring. So that might be a consideration, also.

Mr. MCNERNEY. Mr. Viterna, you mentioned that the DoD departments must have accurate records of personnel and deployments. What is the state of that situation right now? How accurate, how good are the DoD's records?

Mr. VITERNA. My experience for years has been that the records have always been a problem from World War II on. It is just in the latest news reports, it gives specific examples, I guess, of files being lost in Iraq/Afghanistan. I know, in my military career, the file that I left with when I retired is this big, and I imagine a fraction of that actually made it into my official records.

We would travel without orders; that was just a way of life. But in the big picture for justice to be done for the veterans, there has to be records kept, at least of the unit's activities and what the people are doing there. And if they are classified, then they have to

be, there has to be a means to translate that and the proper format for those who need to be make decisions, but it is just unconscionable to not have those records because the veteran is left to his own resources. He can't obtain the records himself because they don't exist, for instance. So is he left with lay testimony or medical opinions that are premised on whether this had happened in service. We find that those have been pretty ineffective over the years in our experience.

Mr. MCNERNEY. Yes. I guess we don't have too much jurisdiction on how the DoD takes records, but we can encourage them to do that.

Mr. Hall, in the NOVA testimony, you suggest introducing legislation to lessen the burden of proof for establishing inservice incurrence for veterans whose claims are impacted by missing military records. Do you have a comment about that?

Mr. HALL. In the written testimony?

Mr. MCNERNEY. Right.

Mr. HALL. I am sorry could you repeat?

Mr. MCNERNEY. Do you have any suggestions on Mr. Viterna's comment on lessening the burden of proof?

Mr. HALL. I think it would, I liked what my colleague here said earlier about lessening the burden of proof. Whether or not you can change 1154(a) and have a single one such as the burden of proof under 1154(b) for combat veterans, I don't know that you can necessarily do it in that particular manner. But I do believe, when there is an absence of records, and it has been verified that there are no records, when VA in a case that I can give you and I think one of them is in my written testimony, an example where the veteran is notified, we can't find your records and we are not going to search for them further, any further search would be futile; that is a case to me where, by no fault of the veteran, your claim is going to be denied because there are no records for us to look at, there should be some provision in the law that has to be able to overcome that type of an activity.

Mr. MCNERNEY. Before I yield, of course, the statement about Reserves and Guard members being at the mercy of the DoD because that is not their home unit, that is something that needs to be looked at. That sounds like a pretty difficult problem.

Mr. HALL. It has always been difficult dealing with, especially National Guard units, as a service officer helping a veteran who files a claim; there is a broken communication.

I don't know whether it is on the National Guard end of it, not understanding fully what it is—I would like to think that it is not simply that—or the impact. The same can be said of somebody on active duty that has, doesn't really get cared for, transporting records home or erasing hard drive on records coming back, not understanding the full impact of what waits 5 years down the road or 3 years down the road, so that communication between the National Guard and the VA for example, that must be overcome.

Same as Reserve units, but mostly for, we see it most of the time in the National Guard, and predominantly, that is what we are dealing with, is our veterans that are called up to active duty in the National Guard and serving overseas.

Mr. MCNERNEY. Thank you for your testimony.

I yield back.

Mr. RUNYAN. I thank the gentleman.

Mr. Michaud.

Mr. MICHAUD. Thank you very much, Mr. Chairman and Mr. Ranking Member, for having this hearing.

Mr. Chairman, if there is no objections I would like to enter into the record a one-page letter that I sent to the VA and the Department of Defense over 2 weeks ago. The letter asks for information from both agencies regarding recent reports of missing field or unit records and I have not yet received a response.

Mr. RUNYAN. Hearing no objection, so ordered.

[THE INFORMATION APPEARS IN THE APPENDIX]

Mr. MICHAUD. Thank you, Mr. Chairman.

In response to Mr. Dumancas' comment about Togus, I think it gets back to the issue I mentioned over and over again when you look at Togus dealing with claims, they are considered an employer of choice, and that is why I think we have a high accuracy rate as well as getting the work done on time. And a part of that, I believe, gets back to turnover rates, and that is one thing I have asked over and over again of other agencies, regions, about their turnover rate and still I have got, as far as I know, to receive that information, so it gets back to the mentality and the workforce being able to take a pride in their work. So I am very pleased that Togus is on top of the list.

My question to the panelists, starting with Mr. Dumancas first, is, have any of you experienced in working with the military in trying to track down records from the Department of Defense, and if so, can you discuss the responsiveness from the military?

Mr. DUMANCAS. Before I came out to the American Legion here in Washington, D.C., I used to be to a county veterans service officer in Minnesota. And it was tough with, especially like Mr. Hall was saying with the National Guard. When we submitted a claim, the regional office would send our request to the National Guard. The National Guard didn't have the records. We could never find them. We don't know if they were stuck with a different unit because they would split up into onesies and twosies going with—from Duluth, Minnesota, they deployed with Monticello or wherever. And one of the other things that we experienced, I had the opportunity, one of the guard units came to me with 20 service treatment records that they finally got put together, they assembled. The problem was that the Guard unit hadn't—lacked the funds to mail them in to the requesting RO. Luckily, my county said, yes, go ahead and ship them down to the RO for those training, for those members that submitted for their claims. It is always difficult, and I don't know why it is, but when a Guard member goes out as a onesie or a twosie, not as a unit, they always come back, and we have the hardest time trying to locate their records. I don't know if it is because active services aren't paying attention to the National Guard, you know, or they don't care because they are National Guard, or they are just, because they are more focused on the active duty. I am not really sure. But it is something that really needs to be looked into.

One of the things that I would like to bring up is a good friend of mine back in Minnesota was injured in Iraq. He was an Army Reservist. His HUMVEE rolled over, so he sustained TBI and neck injury. While at Fort Carson, the active duty doctor told him, well, you are a Reservist, you should just go back to Minnesota. Your unit will take care of you. That is ridiculous. The guy was on a Title 10 tour at the time. He was active duty. But when sister services start treating each other like that, that has got to come to a screeching halt. They need to work together. And also the DoD needs to work with the VA and NPRC also.

I hope that answers your question. I am sorry.

Mr. MICHAUD. Any other panelists have any—

Mr. VITERNA. My personal experience with the National Guard is, as my colleague was saying, was with these individual deployments, and that without careful intake at the receiving units, these people get attached to a unit, so whatever designation they carried with them, for instance, my case of 127th Wing from Michigan, gets blurred. Now they are attached to some other organization, and typically, there is no way to figure out this person's original unit, nobody takes the steps, obviously, to track this person down. I know, when I was stationed at Selfridge, in Michigan, we would get a group of records in the mail, and they are lost souls. And at first, they go to the Army clinic. Then they go to the Navy clinic, work their way to the Coast Guard and then to the Air National Guard and the Reserves, and we would just pick out people we might be able to recognize. But the process in identifying these individuals in their home units has never worked well, and those records are simply missing, never to be found.

Mr. HALL. I would say that over the years, I don't recall any particular dealings with military directly, me personally, other than my own particular case, which I told you how that turned out. But we have transition service officers, I think roughly 30 of them, at different military installations. And so they are dealing with it today firsthand, and of course, you are educating an individual about what their entitlements are, but you are also educating them about when they leave military service, make sure you have a copy of your records for yourself, for your own records, so hopefully that does minimize a little bit of that. However, if there is some sort of an instance that happens while the person is still active duty, our transition service officer can certainly look into it at that particular point because they have the connection, they are on post.

When you are calling from a regional office and you say you are with the Disabled American Veterans, it doesn't matter to a lot of people who you are. And if I could just go back to one other thing and say to Ranking Member McNerney's question about variations in different ROs, I just wanted to sum it up and say training, testing, accountability, leadership and culture. That is why you have the differences. Thank you.

Mr. RUNYAN. I thank the gentleman.

I actually have one more question. I will give the other Members an opportunity, too.

Mr. Hall, you talked about this with your personal experience, but as we document this stuff and go back all the way into the combat scenario, how prevalent is the issue of not actually even

having a record of an incident to start with, let alone the issue we have been talking about trying to find out after it occurred?

Mr. HALL. Well, I believe certainly today that documenting it today because of the availability of things like computers in the field and more abundance of medical personnel with those types of ability to be able to put something into the computer at that particular point versus 20 years ago, when I was in, what was documented, well, we were blown up and we were medivaced. I had a toe tag on. We would go to a different unit, and then the toe tag comes off, and they create their own record, and it comes off, and you go to a different branch. So, in my case, I don't know that it is uncommon to be treated by all different branches of the military in that particular way, but at some point, it just broke down, and I think that that problem was still, it probably has to still exist today with the amount of people that serve in those, say, Iraq and Afghanistan as an example.

What they are doing to overcome it, I mean, stories are stories; they are all out there in the media where 500 gigabytes of information can be wiped out with the press of a button, and that is all those records that go with it, whether it is going and seeing the doc for the flu or a battlefield injury. That is not just medical issues either; that is line of duty things that happen, was it an IED explosion or some type of hostile activity that has to be documented that goes into that. So I would say it is just as prevalent; it may be even more so. But it is has always existed.

Mr. RUNYAN. Any of the other two gentlemen have any experience with it? No. Because when, we talk about it all and a lot of people say, well, it is not that prevalent, but when it happens to one veteran, it is a personal issue, and it is a 100 percent issue at that point, because you are affecting that veteran's life 100 percent. Thank you.

Mr. HALL. That is right. Listen, we deal with people who are on active duty and you hear a commanding officer saying what an acceptable loss is, you can transfer that today to somebody from the National Personnel Records Center or NARA, somebody like that, that says, hey, we service millions of records, and that is true. And I am not doubting one bit of the bang up job that they do with the amount of volumes of paper that they deal with, but for some individual, any individual in one of those agencies to say, well, we service millions of records and so, if we lose a few, that is a pretty good percentage. How would you like to be the one? That is, to me, any veteran that is denied a benefit because their records are lost due to no fault of their own is just unacceptable.

Mr. RUNYAN. Mr. McNerney, anything further?

Mr. MCNERNEY. Sure. I would like to explore a little bit the, what the VA's regulations are concerning missing or incomplete records. Do you all have recommendations on whether those regulations are sufficient or adequate or could be improved?

Mr. VITERNA. Yes. Current law is that the VA has a duty to assist and the duty is enhanced upon their being unable to locate records. But there is a point when that becomes definitive, and in some instances, they issue a memorandum that essentially says, we have searched, and we have exhausted all efforts, and in fact, the record does not exist. But at that point, the only thing left is

to shift the burden back to the veteran. He is still without a remedy, unless there is some lessening of the evidentiary burden. The VA can only go so far if the records don't exist.

Eventually, their duty is to abrogate it, and they have exhausted it, and you know, they have an enhanced duty to look for alternative means to reconstruct records or the like. At some point, there has to be a line in the sand that says, we have to give up here and make a decision, and they do, and the veteran is left with the result.

Mr. MCNERNEY. Is there a recommendation on how to improve that situation?

Mr. VITERNA. Well, just as I had mentioned in terms of lessening the evidentiary burden to mimic the combat language in the 1154(b) that requires the agency to have clear and convincing evidence to the contrary to rebut it, and it is a presumption, effectively, so if there are no official records to rebut a position that I had this injury in service; there isn't any documentation of it—obviously, he still has a current disability, but the medical nexus opinion is impeded by the fact that they don't really know that that event happened in service, so, yeah, you have got an arthritis in your knee, but did you really wrench it in service or wrench it at some other time? And say the evidentiary burden has to be somewhat lessened to make that instance in service accepted as true.

Mr. MCNERNEY. Thank you.

Mr. RUNYAN. Mr. Michaud.

Mr. MICHAUD. Thank you, Mr. Chairman.

I just have one question for Mr. Dumancas.

On July 18th, the Subcommittee held a hearing on the issue of military sexual-trauma, which we explored how veterans who suffered from MST-related PTSD have only one in three chances of having their claims approved. You talked about the challenges of these veterans in your testimony today.

Can you elaborate further on your testimony on how and why VA regulations should be relaxed to improve these outcomes?

Mr. DUMANCAS. Yes, sir. What we have experienced is, at the RO level, writers are still confused on the regulations, the policy that is set in place. And we don't know if it is a lack of training or just solid guidance. They are just confused on the actual policy, so they are basically just denying it and letting the Board of Veterans Appeals handle it. So it comes out here to D.C.; we get remanded, and because it is frustrating, it is very frustrating, so I hope that answers a little bit for you.

Mr. RUNYAN. I thank the gentleman.

And, gentlemen, on behalf of the Subcommittee, I thank you for your testimony. I look forward to continuing to work with you on these important matters. And you are now excused, and we will welcome the second panel up.

First, we will hear from Mr. Jim Neighbors, Director of the DoD-VA Collaboration Office with the Department of Defense. And then we will hear from Mr. Scott Levins, Director of the National Personnel Records Center, with the National Archives and Records Administration. And, finally, we will hear from Mr. Alan Bozeman, the Director of the Veterans Benefits Management System, with the Department of Veterans Affairs.

We appreciate all of your attendance today. Your complete and written statement will be entered into the hearing record.

And, Mr. Neighbors, you are now recognized for 5 minutes for your oral testimony.

STATEMENTS OF JAMES G. NEIGHBORS, DIRECTOR, DOD-VA COLLABORATION OFFICE, U.S. DEPARTMENT OF DEFENSE; SCOTT LEVINS, DIRECTOR, NATIONAL PERSONNEL RECORDS CENTER, U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION; ALAN BOZEMAN, DIRECTOR, VETERANS BENEFITS MANAGEMENT SYSTEM PROGRAM OFFICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF JAMES G. NEIGHBORS

Mr. NEIGHBORS. Thank you, sir.

Chairman Runyan, Ranking Member McNerney, Members of the Subcommittee, thank you for the opportunity to appear before you today, joined by my colleagues from the Department of Veterans Affairs and the National Personnel Records Center, to discuss current and future efforts to ensure military health, personnel, and other records are captured, maintained, and shared with the Department of Veterans Affairs.

My colleagues and I at this table understand that at the end of every record is a servicemember, veteran, or family who has sacrificed tremendously. DoD leadership is keenly aware of the importance of military records as they pertain to the VA disability claims process.

I can appreciate the frustrations of this hearing's first panel, which is why it is a top priority of DoD to improve the system by which our servicemembers and veterans receive well-deserved and earned benefits.

Medical records of all servicemembers—Active Duty, Reserve, and National Guard—have been stored electronically worldwide by DoD since 2006. These records are centrally stored and consistently available as the servicemember moves to a new military unit and installation, including deployments, throughout their career.

Like medical records, Active Duty, Guard, and Reserve servicemembers' official personal records and other administrative data are stored electronically throughout their career and available at unit locations. Since 2004, unit deployment data has also been electronically collected from the military services and stored in the Contingency Tracking System.

Concerning the monitoring of occupational hazards, environmental assessments are conducted at deployed locations when established and then performed annually to measure the air, water, and soil for hazardous agents. Exposures of concern are promptly investigated, and, when appropriate, registries are created.

It is DoD policy to transfer servicemember records to VA when they leave Active Duty upon retirement or discharge. Military service personnel outprocessing centers currently transfer personnel, medical, and dental records to VA for over 300,000 servicemembers annually. A majority of this data is also available via electronic

interface. For personnel and administrative data, this transfer occurs within 7 days of the servicemember's retirement or discharge.

To ensure continuity of care, medical data is available realtime through a DoD and VA bidirectional health information exchange. Medical professionals and DoD and VA clinicians and benefit specialists have access to a very large amount of health data on more than 4.6 million military and veteran patients.

With all of this in mind, we recognize there is much more to do to improve the complex electronic interface of data between DoD and VA. And we are continually collaborating through working groups, data-sharing summits, and executive forums, working the areas where we need to modify policies, processes, and technologies.

Going forward, our joint vision is to develop a single seamless system experience of lifetime services. To realize this vision, DoD and VA are currently planning the deployment and acquisition of two major efforts: the joint Integrated Electronic Health Record, or the iEHR; and the Virtual Lifetime Electronic Record, known as VLER.

The iEHR will unify the two departments' electronic health records systems into a common system that will ensure DoD and VA's health facilities have servicemembers' and veterans' health information available throughout their lifetime. Information about injuries and illnesses incurred during military service will remain available for health and benefits purposes throughout a person's lifetime, supporting patient safety, continuity of care, and facilitating expedient access to and delivery of benefits.

VLER is a joint, multifaceted business and technology initiative which will allow servicemembers' and veterans' electronic administrative and personnel information to be synchronized and shared seamlessly between DoD, VA, and other appropriate Federal and private-sector health care providers. It includes a portfolio of health benefits, personnel, and administrative sharing capabilities. When fully implemented, it will establish a relationship with servicemembers and veterans that begins the day they enter military service and maintains that relationship throughout their lifetime, proactively providing them with benefits and services.

DoD is committed to a future that eliminates paper-based recordkeeping and the warehouses that support them. Movement toward the electronic exchange of information in realtime gives DoD and VA the added benefit of improving interagency processes based on information requirements and unencumbered by legacy forms, manuals, and other paper.

Mr. Chairman, thank you again for your generous support of all services members, veterans, and their families. I look forward to your questions.

[THE PREPARED STATEMENT OF JAMES NEIGHBORS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Neighbors.

And, with that, I will now recognize Mr. Levins for his testimony.

STATEMENT OF SCOTT LEVINS

Mr. LEVINS. Good afternoon, Chairman Runyan, Ranking Member McNerney, and Members of the Subcommittee. Thank you for calling this hearing and for your attention to issues surrounding the management of records which document the service of our Nation's veterans.

I am proud to represent the staff of the National Personnel Records Center, many of whom are veterans themselves, and pleased to appear before you today to discuss the important work the Center does to serve those who have served.

The NPRC is an office of the National Archives and Records Administration. Located in multiple facilities in the St. Louis area, the Center stores and services over 4 million cubic feet of military and civilian personnel, medical, and related records dating back to the Spanish-American War.

In the mid-1950s, the Department of Defense constructed the Military Personnel Records Center in Overland, Missouri. In 1960, the Center's functions were consolidated and transferred to the General Services Administration to be managed by NARA's predecessor agency as a single program, leveraging economies of scale to improve efficiency and offering a central point of access for military service records.

When the Center was constructed, it was not equipped with a fire-suppression system. In 1973, a massive fire at the Center destroyed 16 million to 18 million records documenting the service of Army and Air Force veterans who separated between 1912 and 1964. Though the fire occurred almost 40 years ago, the Center continues to service approximately 150,000 requests per year which pertain to records lost in that fire. When responding to fire-related requests, technicians attempt to reconstruct the basic service record by using auxiliary records, such as pay vouchers, and/or by obtaining documents from other official sources.

In the spring of 2011, NPRC's military records facility began a relocation into a new building designed to meet updated facility standards for storing permanent records. The relocation of records into the new facility was completed last month.

Today, NPRC holds approximately 60 million official military personnel folders. Its holdings also include service treatment records; clinical records from military medical treatment facilities; auxiliary records, such as pay vouchers and service name indexes; and organizational records, such as morning reports and unit rosters.

NPRC receives between 4,000 and 5,000 requests each day from veterans, their next of kin, various Federal agencies, Members of Congress, the media, and other stakeholders and responds to 70 percent of these requests in 10 business days or less. Nearly half of these requests come from veterans seeking a copy of their separation statements, the DD Form 214, because they need it to pursue a benefit. The Center responds to 90 percent of these types of requests in 10 business days or less.

In addition, the Center receives between 5,000 and 7,000 requests each week from the VA and other Federal agencies requiring the temporary loan of original records. These requests are normally serviced within 2 to 3 business days.

In the case of the VA, nearly every day it provides an electronic file which is uploaded into NPRC's system. The file is comprised of new requests for the temporary loan of original records. At the end of the cycle, when files are returned to NPRC, they are placed back into their original locations, and barcode technology is used to verify accuracy.

In instances where NPRC is unable to respond promptly to a request, the biggest obstacle is normally our inability to retrieve the responsive record. For example, delays may be experienced if a file is currently charged out to another office, undergoing extensive preservation treatment, or determined to have been destroyed in the 1973 fire.

In instances where a responsive record is not located on a first search attempt, the results are analyzed to determine the next course of action. In most instances, a verification search is conducted by a more experienced staff member. Sometimes this involves trying to secure a file that is charged out to another agency or actively moving through the order-fulfillment process. Other times, it involves analyzing data elements on the request to determine if an error has been made by the requester—for example, an inaccurate service number, a misspelling of the member's name, inaccurate dates of services, et cetera.

In instances where a responsive record cannot be located, NPRC technicians will attempt to reconstruct the basic service record by using alternate sources of information. Once a technician has verified from official sources the dates and character of service, they prepare a certificate which can be used in lieu of the DD-214 to secure benefits.

Sometimes the requested records are not located at NPRC. Beginning in the early 1990s, the Military Service Department stopped retiring medical records, now called service treatment records, to NPRC and instead retired them directly to the VA. As a result, NPRC does not have direct access to modern service treatment records.

In the late 1990s and early 2000s, with the exception of the Coast Guard, the military service departments also stopped retiring official military personnel files to NPRC, instead retaining them in-house in electronic formats. With the excepting of the Department of the Army, the NPRC refers requests for these records to the appropriate military department for servicing.

In 2007, the Department of the Army entered into an agreement with NARA to allow NPRC to access its electronic records for the purpose of responding to requests from veterans and other stakeholders. As a result of that decision, NPRC referrals to the Department of the Army were reduced by approximately 2,500 per month. The Air Force, Navy, and Marine Corps continue to service their own personnel records and respond to requests from veterans and other stakeholders.

NARA is eager to work with the Subcommittee and other stakeholders to explore opportunities to better serve our Nation's veterans. We invite the Subcommittee Members to visit NPRC. We welcome suggestions to improve efficiency. And we again extend our sincere thanks to the Subcommittee for expressing such great interest in the services that NPRC provides.

I am happy to answer any questions you may have.

[THE PREPARED STATEMENT OF SCOTT LEVINS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Levins.

Mr. Bozeman, you are now recognized for your testimony.

STATEMENT OF ALAN BOZEMAN

Mr. BOZEMAN. Good afternoon, Chairman Runyan, Ranking Member McNerney, and Members of the Subcommittee. I am here today to discuss the importance of safeguarding the records of servicemembers and veterans, particularly as the VBA transitions to a paperless claims process.

Secure electronic records are vital to our transformation, providing more timely and accurate decisions to veterans, their families, and survivors. VBA is aggressively executing its transformation—a series of tightly integrated people, process, and technology initiatives designed to eliminate the claim backlog and achieve our goal of processing all claims within 125 days and 98 percent quality in 2015.

Key to VBA's transformation is ending the reliance on the outmoded paper-intensive processes that currently thwart timely and accurate claims processing. VA's Records Management Center, or RMC, is responsible for approximately 7.5 million inactive claims files and service treatment records. It houses approximately 7.6 million records and has capacity to hold approximately 8.7 million records.

Both the RMC and the regional offices rely heavily on the timely return of records. On average, the RMC receives 300,000 inactive claims files from ROs and 350,000 STRs from DoD each year. Currently, the longest phase in the claims process is gathering and awaiting evidence, which takes an average of 229 days. VBA is working with our stakeholders to receive more timely records, which is absolutely critical to our transformation.

To improve the efficiency of the claims process, VA is executing a new business model that relies less on the acquisition and movement of paper documents. The Veterans Benefits Management System, or VBMS, is a business transformation initiative supported by technology to improve service delivery. The VA recognizes technology is not the sole solution to improving performance and eliminating the claims backlog; however, it is a critical requirement to our transformation. By the end of December 2012, VBMS will be deployed to 18 regional offices. Approximately 20,000 users at all 56 ROs will be utilizing VBMS by the end of calendar year 2013.

The centerpiece of VBMS is a paperless system, which will be complemented by other people, process, and technology initiatives. The VBMS electronic folder, or eFolder, is the electronic equivalent of the VBA paper claims folder. It serves as a digital repository of all documents related to a claim, and it provides for document uploading and viewing by multiple simultaneous users. The eFolder eliminates wait times for physical paper folder transport, reduces incidents of lost or misplaced paper folders, and provides on-demand access to key documentation.

The VBMS architecture incorporates multiple layers of security controls to provide comprehensive protection. Security controls are in place to prevent unauthorized access and to protect electronic documents from loss from any source of disaster or malfunction. VBMS is a modern system engineered to the latest standards in information-protection technologies, and it will ensure the privacy of sensitive veteran records even as access to the system is provided to thousands of VBA, Veterans Health Administration, and veterans service organizations' authorized users.

VA understands the importance of securing records. Paperless claims processing through VBMS, while maintaining the confidentiality, integrity, and availability of the data, is critical to our transformation goal of eliminating the claims backlog in 2015, ensuring timely and quality delivery of benefits and services to our veterans, their families, and survivors.

This concludes my statement. I would be happy to address any questions from Members of the Subcommittee.

[THE PREPARED STATEMENT OF ALAN BOZEMAN APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you very much.

And I will begin a round of questions. I want to start with Mr. Neighbors.

What is the rationale for handling servicemembers' records differently, the personnel records differently from the health and dental? Common sense would say if you kept it all one, it wouldn't be fragmented.

Mr. NEIGHBORS. I understand, sir. I do know that the rationale that I understand is that different organizations within the military services are developing the records. Beyond that point, I believe also how they have grown up through time, as far as where the records were developed as far as paper-based now moving into an electronic base, is another piece that has possibly kept them apart.

How we are obviously going into the future, obviously we will be aligning and moving those things together. I do understand your rationale and your understanding of why that makes common sense. It does. Pulling things together and ensuring that does make great sense.

I do know that when we outprocess these servicemembers, when the outprocessing center person—they look and ensure that all of those records are put into one binder. So, in other words, medical, dental, and personnel records, the popular DD-214, as it is known, all go into one binder as it is shipped off then, and the various copies going to the various locations.

As we are moving forward in the electronic age, we are going to be moving into a similar kind of arrangement with the two that we just talked, the iEHR and the VLER.

Does that answer your question, sir?

Mr. RUNYAN. Yes. I think "we are getting there" is the key to it.

Mr. NEIGHBORS. Yes, sir, I understand.

Mr. RUNYAN. And, also, what challenges has the DoD encountered in implementing the integrated electronic health record?

Mr. NEIGHBORS. I can tell you, sir, that I have viewed what we call the initial operating capability timeline, and that timeline is being met right now. I know that the initial design review has just been met, in fact, just earlier, the 27th through the 29th of November.

It is a large undertaking, there is no doubt. I mean, it is billions of dollars to put this into place. I would say, from my perspective and from the DoD's perspective, it is an endeavor like we have probably not done on the business side before, other than what we have done within the DoD itself. We have actually brought DoD together, I think.

And while we are working very closely with the VA and partners and getting there, it is—I don't want to say, necessarily, challenging, but it is pulling cultures together, obviously, between our two organizations.

I would also say that moving forward and using commercial capability and bringing in the different sources of material, as far as what actual software and things that we use, while not a challenge, it is very complex, I guess I would say.

So to answer your question, I think, the most succinctly would be the complexity of where we are trying to go with all of this and moving it forward.

Mr. RUNYAN. But no significant technology roadblocks or anything?

Mr. NEIGHBORS. To my understanding, sir, the technology and the actual framework that we are moving from is, again, toward the initial operating capability, is moving forward.

Mr. RUNYAN. Okay.

And if I could touch on one other thing. There has been a great deal of media attention surrounding DoD—and I talked about this with Mr. Hall in the last panel—particularly getting records of in-service events in combat.

What is the DoD doing to address this issue to make sure that we have that information from the point of the incident?

Mr. NEIGHBORS. I understand, sir. When a person is actually in a combat zone, there are very specific systems—each one of the services has a system that does collect and understand where units and individuals in those units—and that is Active Duty, Guard, and Reserve—when they are actually in theater at different base camps and locations.

That data is then rolled together and brought into a very specific system called the Contingency Tracking System. Again, it has been around—if I go back, I think around 2004 we actually put that into place, and it has been moving forward.

On the Reserve component side, we also have what is called the Reserve Component Common Personnel Data System, which tracks their movement and everything also, and then reports all of this data into the Defense Manpower Data Center, where all of it is coalesced into one place. That data is then made available to VA and other organizations, too.

Mr. RUNYAN. Okay.

Mr. Levins, you testified about how the Army participates in an information exchange with NPRA. Can you elaborate, what is your

experience of why the other branches aren't part of that same process?

Mr. LEVINS. When the National Personnel Records Center was established in the 1950s through the year 1999, it was funded through appropriations from Congress. Beginning in the year 2000, that changed, and we are now funded through reimbursements from the services for the work that we do them. So there is continuous pressure on us to try to keep our costs down, and the services all try very much to keep their bill down.

As the services went to electronic records, all of them, including the Army, decided that they would retain the electronic records and service those requests themselves. And after a couple years of doing that, a backlog of requests had been generated at the Department of the Army, and they reversed this decision and permitted us, at least on a pilot, to begin servicing those requests on their behalf using their electronic records. That began in 2007, and that continues today.

Mr. RUNYAN. Are you aware of any backlogs with the other services?

Mr. LEVINS. I can't speak for any backlogs at the other services.

Mr. RUNYAN. Thank you.

With that, I yield to the Ranking Member, Mr. McNerney.

Mr. MCNERNEY. Thank you again, Mr. Chairman.

And I want to thank you guys. This is a tough business. There are a lot of records, a lot of new data coming in, and everyone wants the same thing. So there is no question about that. But you can hear our frustration in how long this is taking, and we just want to work together to get to the best result.

Mr. Bozeman, in earlier testimony, the American Legion pointed out the lack of plans in regards to scanning documents into the VBMS. Did you have a comment on that?

Mr. BOZEMAN. Thank you, Ranking Member McNerney. Yes, I would love to take the opportunity to talk about that.

As you know, over the summer, we ordered two contracts for scanning vendors, two commercial contracts, to scan documents and convert paper documents into VBMS.

I am happy to say that, as of today, both vendors are up and running. We have 13 stations on VBMS right now actively receiving images from both vendors. They have scanned at this point over 250,000 documents of various sizes with a vast amount of images into those stations. It is working well. They have good quality, good timeliness.

You also mentioned the BDD claims as well. Both stations that process BDD claims, Winston-Salem and Salt Lake, Salt Lake is fully in VBMS already; Winston-Salem comes on next week, December the 10th. So we will be able to address not only BDD claims but the larger claims volume.

Mr. MCNERNEY. So you feel that there is a real comprehensive plan in place for completing the scanning process?

Mr. BOZEMAN. Yes, sir, I feel very confident in our scanning operation at this point. Yes, sir.

Mr. MCNERNEY. So how come the VA doesn't want to go ahead and purchase the scanning equipment? Is there a cost advantage to having contractors doing it? Is it any more accurate?

Mr. BOZEMAN. Sir, I am not sure about any cost benefits, per se. But I can speak to the fact that through the help of NARA, actually, we have local scanning capabilities at each regional office for small-volume scanning. It is not necessarily our passion or our desire to be a full-time scanning operation; we are much more interested in processing claims and lowering the backlog.

We also have a scanning operation at the Records Management Center that can assist with not only STRs, BDD claims as well, and other operations we see that are critical to knocking down the backlog for BVA.

Mr. MCNERNEY. So you feel it is a more efficient use of VA's resources to use contractors than to have the VA focus on continuing the—

Mr. BOZEMAN. At this point in time, I do, sir. Ultimately, where we want to get is electronic records.

Mr. MCNERNEY. Right.

Mr. BOZEMAN. So we want to get out of the business of converting paper. And as we move toward receiving electrons, not only from DoD but our various stakeholders, that is the ultimate place we want to be as an organization. It is more efficient, it is more timely, it is more accurate. And that is what we need to beat the backlog for VBA by 2015.

Mr. MCNERNEY. Do you think the accurate and timely flow of information from the DoD to the VA is going to be improved significantly then?

Mr. BOZEMAN. So I think I am encouraged by some of the collaboration efforts we have done over the past 6 months especially. As Mr. Neighbors pointed out, we have a series of meetings; we have had multiple data-sharing and collaboration meetings. I am encouraged by some of the early results. It is complex, as Mr. Neighbors stated. I don't think we are there yet, but I think we are on a good path to get to there ultimately.

We have a platform that can receive those records within VBMS, a content management service that allows uploads not only from veterans, veterans service organizations, through eBenefits or the stakeholder portal, but ultimately we can receive information from DoD as well. We are on that path. And I think it is going to be a long, hard road, but I think we can get there, sir.

Mr. MCNERNEY. What happens when the DoD doesn't cooperate or doesn't have proper inputs? I don't know how you deal with that exactly.

Mr. BOZEMAN. Well, with VBMS, sir—thank you for your question—with VBMS, we have the capability to process both electronic and paper. Again, we prefer electronic records, but we cannot totally eliminate the need for paper. We are always going to receive paper.

So if we don't receive electronic records, we will still process claims that we receive in paper and convert them to electrons. Ultimately, again, we want to receive electronic records. So I don't think it is a matter, necessarily, of cooperation, but if the capability does not exist, then we will process, as we do now, within VBMS, but we will have to convert the paper to electrons.

Mr. MCNERNEY. You are going to always have a need for some amount of scanning.

Mr. BOZEMAN. Yes, sir. I believe so.

Mr. MCNERNEY. All right.

Thank you, Mr. Chairman. I yield back.

Mr. RUNYAN. Mr. Michaud?

Mr. MICHAUD. Thank you, Mr. Chairman.

Mr. Neighbors, how will the loss of unit-level records be addressed during a servicemember's outprocessing?

Mr. NEIGHBORS. I am going to have to take that one as a question for the record. I don't want to give you imperfect information. I do know that the individual manager that would look at the person's record would identify any gaps. Now, I think to your question, though, how do we fill those gaps is something I would like to get back to you, if I could.

Mr. MICHAUD. Okay.

Mr. NEIGHBORS. But I do know that they are looking for completeness of a record, again, with medical-dental unit and other items. So if you would, sir, I would like to take that back, and I will get an answer for you.

[THE ATTACHMENT APPEARS IN THE APPENDIX - ATTACHMENT A]

Mr. MICHAUD. Okay, yes.

And you mentioned in your testimony that when a servicemember is outprocessed for transition or retirement, their combat records and outpatient records are reviewed for completion. When was that instituted?

And what steps are taken in a record that is found to be incomplete? Do you let the servicemember or the VA know that it is incomplete?

Mr. NEIGHBORS. Multiple questions I heard, sir. The first one is as to how and when this document takes place. I know there is a DoD instruction that covers exactly what the person is supposed to do. Again, when that actually took place, I have the document here, I could take a look and actually get that date for you.

[THE ATTACHMENT APPEARS IN THE APPENDIX - ATTACHMENT B &C]

Mr. MICHAUD. Okay.

Mr. NEIGHBORS. I do know that it is consistent across all the services. And there are actually paperwork items that we have to sign and have slapped on top of the documents themselves so the VA knows that it is certified complete.

Now, that completion, that certification, I should say, is of known records, that, to the best of our knowledge, everything that we have known is part of this record. I will say that where the servicemember has an obligation, let's say, Guard and Reserve specifically, if a servicemember—not "specifically," any servicemember—but where it hits, I think, is the Guard and Reserve a lot of times. They will go out and they will go to the private side, and they will get some sort of service they need. It is the obligation of that servicemember that when they are reactivated, that they have to bring those medical records back to that unit so that they can be collated and put in.

I will tell you that is an area, though, of challenge for us, is getting servicemembers to come back in when they are reactivated

and bring all that documentation in and have it reentered into the central repository. We are working that.

I will be honest, as Mr. Bozeman said, we have an ongoing forum that we meet very regularly on. That was one of the items that VA brought forward that they needed us to do. And we are working it as a policy issue with the services right now to ensure that all that data is collected and that they are going out and actually making sure that the servicemembers are doing that.

Does that answer your question, sir?

Mr. MICHAUD. Yes. Thank you.

Thank you, Mr. Chairman. I yield back.

Mr. RUNYAN. I thank the gentleman.

I actually have a couple more questions real quick, the first one being for Mr. Levins.

We know that there was a recent incident involving misplaced records at your facility, and there is an ongoing investigation in this incident. Can you elaborate on, from a managerial perspective, how you have tried to mitigate that, before we have actually come through with the outcome of the investigation itself?

Mr. LEVINS. Yes. As you are aware from the briefings that I provided to your staff over the summer, there was an incident in July where a temporary employee unlawfully removed approximately 250 documents from our holdings.

Upon hearing this, I was appalled. And I can tell you that the Archivist of the United States, as a Navy veteran himself, to say he was angry is an understatement.

And as you noted, this is still under investigation, and my understanding is that the person charged is going to face criminal charges for this. So I can't go into a whole lot of detail about it.

But some of the things that we have done is, number one, we have implemented exit screening at our facility in St. Louis. We had already had that in place in our Washington, D.C. areas, and with the large volume of permanent records in St. Louis, it was time to implement that out there. So now all employees of NARA and all visitors to the Center, when they exit the building, they have to allow the guards to look through their bags and so forth to make sure they can't walk out of the building with any documents.

We were able to recover the documents promptly, and we were able to—because we have a tracking system that tracks all the reference requests to which we respond, we were able to bounce those documents off of our production system to determine if any requests had been made for those records and determine any impacts. And, fortunately, we were able to determine that no veterans were adversely impacted by the temporary absence of those documents from those records.

We also developed a more robust auditing procedure in that division of the Center so that, you know, if something like this occurs, we will find it, you know, before documents are actually missing.

Mr. RUNYAN. Thank you for that.

I also have quick questions for Mr. Bozeman.

When do you anticipate we will start seeing measurable results with the VBMS system?

Mr. BOZEMAN. Thank you, Mr. Chairman, for your question.

Release 3.5 of VBMS was deployed on November the 5th. After that, we deployed to 10 additional stations full up on what we consider the national deployment-level software. We anticipate we will start to see good results because that software gives us the capacity to truly process claims in VBMS. So I would say early in 2013 we will start to see results from those claims as those stations come on board.

We will have 18 stations full-blown into VBMS by the end of the calendar year. So I would look for that early in 2013 to start seeing measurable results of people on the full-blown system of software.

Mr. RUNYAN. Okay. Thank you.

And to follow up on the question Mr. McNerney was asking about your scanning contracts, can you provide the amount of the inventory, the duration of the contracts and the monetary value of the contracts.

Mr. BOZEMAN. I will take it. I believe those are 1-year contracts with option years. I am not certain of the exact specifics of the contract, so I can take the remainder of that for the record to verify.

[THE ATTACHMENT APPEARS IN THE APPENDIX - ATTACHMENT A]

Mr. BOZEMAN. The value of the contracts between the two vendors I believe is $22 million and $23 million, respectively, between the two.

And the—I am sorry, I forgot the third part of your question, sir.

Mr. RUNYAN. You got duration. Inventory?

Mr. BOZEMAN. Yes. The inventory, sir, the base—we anticipate 60 million images per month between the two vendors.

Again, it is competitive, so the vendor that shows greater quality and timeliness, we can direct more work to that vendor to build efficiencies in the system. That is why we are excited about the prospects of the way this system is set up between the two vendors.

Again, at the height of the contract, we expect 60 million images per month.

Mr. RUNYAN. Thank you all very much. On behalf of the Subcommittee, I thank you for your testimony. We welcome working closely with you in addressing these important issues that have such an impact on our American veterans.

And you are all now excused. Thank everyone for being with us today to discuss this important topic.

I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include any extraneous material.

Hearing no objection, so ordered.

Mr. RUNYAN. I thank the Members for their attendance today.

And this hearing is now adjourned.

[Whereupon, at 4:01 p.m., the Subcommittee was adjourned.]

APPENDIX

Prepared Statement of Hon. Jon Runyan, Chairman

Good afternoon and welcome everyone. This oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs will now come to order.

I called today's oversight hearing to discuss an important yet often overlooked aspect of the veterans' benefits process – access to various service department records. Such records are often necessary, and vital, for a veteran to prove their claim. As Chairman of DAMA, I am troubled by information regarding the handling of records that has come to my attention.

In today's environment, as we shift from paper records to a digital environment, important questions arise regarding what the best practices are for making this transition.

For example, agencies such as the VA and the National Archives and Records Administration, or NARA, must engage in a daunting cost-benefit analysis to determine what records should be digitized, and how this process should take place.

Similarly, the Department of Defense must determine the best way to maintain digital records in various environments, from DoD hospitals to combat zones.

Further, all three agencies must continue to work together to ensure that veterans' records are initiated, maintained, and transferred as efficiently as possible.

Today, that is the aspect that we'd like to focus on – the efficiency of the records management process.

As many of you may already be aware, the records management process begins with DoD. Veterans depend on DoD to properly note certain in-service events, whether in the veteran's individual service medical and personnel records, or in unit histories.

Issues pertaining to the thoroughness of DoD's recordkeeping have recently received media attention in light of evidence that some units were not properly documenting in-service events, such as combat related incidents. This has been a source of significant frustration for many veterans who file claims with VA and are dependent on such documentation to substantiate their claims.

For those records that are properly maintained by DoD, custody of certain records is then turned over to the Archives, although different branches of service have different policies and procedures. The National Archives and Records Administration maintains millions of military personnel, health, and medical records for discharged and deceased veterans of all services.

Although the Archives recently began receiving access to digital records from the Army, they do not have full digital access to the other branches of service. In addition, the agency still maintains a full warehouse of paper records from older generations of veterans. As all agencies that handle such vast amounts of paper know, there are challenges associated with maintaining both digital and paper records.

The Archives has recently faced some challenges with respect to the maintenance and security of veterans' records. I would like to invite NARA to continue an open dialogue with this Committee so the most effective procedures for managing veterans' records can be implemented.

Turning to the role of the VA, the agency has a statutory duty to assist a claimant in obtaining certain records. Accordingly, it is important that we work together to ensure that VA is able to communicate both effectively and efficiently with both the Archives and DoD to comply with this duty.

In addition, VA is also in the process of making important decisions about how veterans' records and claims folders are handled in a digital environment, as they continue their transition over to the electronic Veterans Benefits Management System, or VBMS.

While we all have high hopes for VBMS, we must not overlook one of its essential functions, which is the process for scanning and converting veterans' records.

Before I conclude, I would again like to emphasize that our goal today is to ensure that the entire chain of command, from DoD, to the Archives, to VA, handle veterans' records with the utmost care and respect.

Often, a single record or notation can be the difference in whether a veterans' disability claim is granted or denied. This is why we must work together to ensure that no records are lost, overlooked or otherwise unable to be associated with an individual disability claim.

I welcome today's witnesses to continue this ongoing discussion and offer their own specific recommendations on how to improve upon the veterans records management process, particularly now as we work to transition into a digital environment.

I would now call on the Ranking Member for his opening statement.

Prepared Statement of Hon. Jerry McNerney, Ranking Democratic Member

Thank you, Mr. Chairman, for holding today's hearing about Veterans' records, and how the VA is managing its transition to a paperless system and new technologies.

We've all read the recent news articles regarding lost, inaccurate and mishandled Veterans' records at the hands of the DoD and VA, as well as their struggles in recapturing this data once it is lost or improperly recorded. I am deeply troubled about these incidents. This is unacceptable.

Congress hears complaints of lost, missing, destroyed or unassociated files all too often. Information affecting a Veteran's claim should be better protected by those charged with its care. Accountability needs to occur at the management level and with individual employees who handle the day-to-day influx of information.

Veterans and their families should not be burdened with the responsibility of recreating lost files or providing multiple copies of records that once were in the DoD and VA's possession.

I also remain troubled about the more than *1.3 million* claims and appeals that are languishing in VA's flawed processing system—in an organization with a current management culture that often over-emphasizes production over quality. It is imperative that we make comprehensive performance improvements to the system while ensuring accurate and accountable claims outcomes for our Veterans.

I know that VA is taking great pains in this direction. However, today, like many Veterans and stakeholders, I cannot say that I have confidence that the VA is in complete control over these processes.

I have met with too many Veterans who have had to wait years for an initial decision on their benefits. I have heard too many unfortunate stories of Veterans who suffer as a result of VA temporarily closing poor performing Regional Offices for retraining, like the Oakland RO that serves Veterans in my district. While the average days pending for most claims is 255 days; in the Oakland RO, it is a mind-blowing *425.8 days.*

I know VA ROs such as Waco and Los Angeles are experiencing similar delays. In fact these delays are systemic because 67% of all claims and appeals are in backlog status and nearly 25% will be done erroneously.

Why the disparity? Why the protracted delays?

Since 2007, the VBA has added over 11,000 claims processing personnel and Congress has funded these requests. Yet the backlog still climbs. The VA OIG concluded that in order to change these outcomes, VA needs to enhance policy guidance, compliance oversight, workload management, training and supervisory review in order to improve claims processing operations.

These conclusions do not change. The year may be about to change but the issues are the same— the backlog is just a symptom of the problem. The current system is broken and in need of a major overhaul.

We need to focus on getting the claim right the first time—**as if a do-over is not an option.** We need to get this right so that no claims are languishing and Veterans, their families and survivors get the benefits that they have earned and deserve without delay.

I am somewhat enthused by some of VA's latest technology undertakings, including e-Benefits and its Stakeholder portals. However, I remain concerned that again some of VA's efforts move forward without direction, like a rudderless rowboat.

VA needs a comprehensive plan with a clear vision and mission as many of the stakeholders indicate in their testimonies. To date, we *still have not* received the

VBA Transformation Plan that VA Under Secretary Hickey promised at our hearing in June of this year.

Today's witnesses will provide us with greater insight on these systemic problems—including how Veterans and their dependents are harmed when VA and DoD mishandle their documents and how improvements can be made. I hope to hear testimony and responses that reflect VA's solemn duty to deliver its benefits mission using world-class 21st century inputs that focus on Veterans ahead of processes.

Thank you, Mr. Chairman, and I yield back my time.

Prepared Statement of Richard Dumancas

Chairman Miller, Ranking Member Filner and distinguished Members of the Committee:

Thank you for this opportunity to come before you today to discuss the importance of the data component in the Department of Veterans Affairs (VA) efforts to transform the claims processing system for the 21st century and beyond. The much beleaguered claims system has been under harsh criticism for quite some time as VA has struggled under a massive backlog of claims and tried to work towards a system that could deliver earned benefits to veterans in the timely manner they deserve. If VA is to climb out from under this mountain of claims utilizing the new features of the Veterans Benefits Management System (VBMS) paperless processing environment, the way in which they manage veterans' data is going to be one of the most important factors in determining success.

Working with the veterans' data will present several challenges. First and foremost is the entryway to this paperless processing environment, how will VA deal with transferring information on paper into a digital world? Second, VA will have to deal with the management of the electronic records even though the real world data is divided amongst a confusing number of sources, particularly for Guard and Reserve component veterans. Finally, even though VA has an extensive history of dealing with lost data and many regulations to account for the fact that military record keeping is not always what it should be, these regulations are not always uniformly enforced at the Regional Office (RO) level and VA will need to address this lack of consistency as they move forward and deal with the new challenges presented in the electronic operating environment.

Scanning and Submission of Evidence – the Entry Point into VBMS

Perhaps the most critical component to the success of the new electronic tolls provided by VBMS in serving the needs of disabled veterans filing for earned benefits is the quality of the data available, and that demands attention to detail at the first step – scanning the veterans' data. Unfortunately, there is at best vague information about how VA plans to move forward with the scanning component, and at worst a morass of chaos and uncertainty. The American Legion would like to see a clearer road map laying out VA's plans for transforming data to electronic data presented in a transparent manner.

Scanning is already required as a part of intake at ROs utilizing the VBMS system. Furthermore, the Benefits Delivery at Discharge (BDD) sites in Salt Lake City, UT and Winston-Salem, NC also require scanning as this key transition program also operates in an entirely electronic environment. However, developments at the BDD sites raise troubling questions about VA's plans to go paperless nationwide in the coming year.

At this time, there is no contract in place at either BDD site for scanning, so new claims are not being entered into the pool of claims. While one employee referred to this as "a temporary benefit" as it allowed everyone to catch up on the backlog of claims at the BDD sites, any long term view of the situations must recognize the growing backlog of claims building up waiting to be scanned. Like a dike bursting open to let the floodwaters through, these claims will overwhelm the resources as soon as a contract is in place.

At a hearing before the full House Committee on Veterans Affairs on June 19th, Mr. William Bosanko, Executive for Agency Services, National Archives and Records Administration (NARA) indicated there was no long term contract in place for scanning at VA Regional Offices. The contracts that had been in place were for a much smaller scale than expansion to all ROs. The most recent contract had been for only five locations. There have been no subsequent indications of future long term plans for the scanning provided.

What is most troubling about the scanning portion of the data chain within VA is not the myriad questions about the quality of optical character recognition (OCR)

and how searchable the documents will be, although those questions are certainly important. What is deeply troubling is that the scanning is so obviously a key component and there has been little to no public indication from VA about the road forward. As concerned stakeholders, The American Legion can only wonder as to the size and nature of future log jams building up which could devastate the process for veterans in the future.

The American Legion urges VA to present a clear road map for the way forward on the scanning component so all concerned stakeholders can understand that this critical data component is no longer a weak link in the data chain. There are other more pressing data concerns to worry about, but it is hard to give them focus when there are so many outstanding questions about the basic steps at the front door to the entire process.

Data Location – Finding Government Records

Obviously, the ability to communicate the critical data between governmental entities such as the Department of Defense and VA is essential to a smooth claims process. To catalogue the litany of complaints about delays in the development of a Virtual Lifetime Electronic Record (VLER) between VA and DOD would be so lengthy as to obfuscate almost any other discussion. Suffice to say stakeholders such as The American Legion have a long history addressing the unacceptable lack of clear communications.

In the 21st century, the ability of the DOD and VA to maintain a simple, common record for service members from their date of induction all the way through their military and civilian careers until internment in a veterans' cemetery should be a given, not a question. Rather than add to the existing mountain of concerns about the lack of a consistent electronic nature, The American Legion will simply state there must be a renewed commitment to getting VLER back on schedule and implemented with all due haste.

However, there is another concern regarding the difficulties in communicating service member data that is often overlooked when discussing the communication problems between VA and DOD and that is the widely distributed nature of information and records for members of the National Guard and Reserve components.

As the last decade of warfare has clearly shown, the National Guard and Reserve components are an integral and highly utilized component of our nation's military structure. However, record keeping for these components still lags deeply in the past century. At times, over 40 percent of the deployed forces in Iraq and Afghanistan have been Guard or Reserve component members. Over 650,000 National Guard and Reserve members have deployed since September 11, 2001 with many of those service members deploying multiple times over the last decade.

Yet for a variety of reasons, consolidating the vital data for these service members is a far more challenging task, and that fact has presented difficulties for a number of veterans when it comes time to file a claim.

Anecdotally, one National Guardsman The American Legion came into contact with told this tale of the difficulties he had run into. In 2005, the veteran in question underwent a Medical Evaluation Board/Physical Evaluation Board (MEB/PEB) process and was ultimately discharged from the military due to a spinal injury sustained in service. The veteran filed their own claim with VA within a couple of months after discharge, and didn't seek representation for the claim at the time stating "I had just gotten discharged for the injury, how hard can this be?" After approximately ten months, the veteran finally received an initial denial of benefits from VA as they could not find a variety of records associated with the claim. This was all still within a year of being medically discharged from the Army.

The veteran sought help from The American Legion at this point, and filed an appeal with a Decision Review Officer (DRO) at the Regional Office. During the course of this appeal, which took over an additional year, it became clear that the veteran's records were split over multiple locations. There were still records located in the country the veteran deployed to. There were records in Landstuhl, Germany where the veteran had stopped over while being medically evacuated. There were records with the National Guard bureau in the veteran's home state. There were records with the active duty division that had commanded the Task Force the National Guard unit had operated under. There were records in the National Personnel Records Center (NPRC) in St. Louis, and there were records in the hospital at the military base the service member was sent to while on medical hold.

It was not until the complicated process of DRO review that these records were all consolidated and considered that the veteran was finally granted service connection – for a spinal injury that had provoked their discharge from the Army. Obviously this is a somewhat extreme example, but it illustrates the major challenge Guard and Reserve component veterans face in seeking disability service connection

from VA. Their records exist piecemeal and spread over a multitude of locations. When confronted with seeking out service records with a single request to NPRC or with a legwork intensive process of tracking down multiple units, commands, and records sources, what is an overworked employee with limited time to devote to a single claim in the face of a massive backlog more likely to lean towards?

American Legion representatives who have conducted site visits at ROs through the Regional Office Action Review (ROAR) process have seen flow charts prepared for VA employees to assist determining where to find Guard and Records. This is a positive step forward, and VA needs to build upon this step.

The American Legion believes better training on records location with those of their employees who develop claims could help with the problem of scattered records, but ultimately, there needs to be a better consolidation process for this information. Furthermore, this consolidation should be considered as part of the VLER project as VA and DOD work together to create a unified record for service members. This is too important to be tacked on as a later consideration; it must be a ground level, fundamental building block of the new VLER.

The heavy utilization of Guard and Reserve members is not going away. In fact, with deep cuts looming for active duty personnel levels in the coming decade it is clear the Guard and Reserve will be a critical component of the nation's defense structure for the foreseeable future. They must stop being an afterthought in the logistical side when it comes to safeguarding their vital records and communicating that information to the necessary other agencies of government.

Implementing the Rules and Regulations on the Books

The idea that the military sometimes struggles with record keeping is not a new one. There are already multiple rules and regulations on the books to deal with situations where records are either incomplete or not present. Whether it has been challenges in the past such as the St. Louis fire of 1973, the confusion inherent in combat zones, or even records that could help validate a veteran's claim that have been destroyed by regulation, there are rules on the books or in the works that address the known fact that sometimes the key information is not present in the record.

Despite instructions to give special attention to alternate means of establishing information such as "buddy statements," photographs and newspaper clippings, veterans are still often stonewalled by the a finding that the events are "not reflected in the service record." 38 USC § 1154 recognizes the lack of consistent record keeping in combat and states " ... the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran."

Recently, with regard to Posttraumatic Stress Disorder (PTSD), VA has relaxed internal regulations to concede the occurrence of stressor incidents when a diagnosis of PTSD exists and the stressors described are similarly consistent with the circumstances and conditions of combat. This was done not solely for those who could prove combat through awards such as a Purple Heart or Combat Infantryman Badge (CIB). This was extended theater wide for war zones, as recognition of the modern battlefield's asymmetrical nature, where clear lines of battle no longer existed.

During the period of consideration of the new regulations surrounding PTSD, arguments were made to further extend the concession of stressors to cases of Military Sexual Trauma (MST) when there was an existing diagnosis because MST survivors had similar challenges in establishing the occurrence of stressors. Perhaps cruelly, records of sexual trauma in the military are often expunged by regulation after a period of three years, making it impossible down the road for a veteran to obtain any record of the event. The American Legion continues to urge Congress to press for the relaxation of stressor requirements for MST survivors to match those afforded to combat veterans and to rectify this inequity.

However, even though VA's own rules afford great benefit of the doubt to veterans with lost records, at the RO level the application of these regulations is inconsistent at best. In fact, some RO employees have stated the regulations are "confusing" and "something for the Board [of Veterans Appeals] to handle, not us ... "

This can be corrected with better training at the RO level and clear direction from VA Central Office (VACO) that these rules are important. The American Legion has long contended that training on all levels at the RO must be made more robust and better tailored to correct known deficiencies. The handling of claims with missing data is certainly an area where VA's training could use improvement.

Conclusion

In conclusion, The American Legion is deeply concerned about the lack of a clear plan forward regarding the scanning process, one of the most critical components of the shift to a paperless, electronic environment. The Legion urges VA to work with the stakeholders in the Veterans Service Organizations and Congress to develop a plan and make it transparent so all concerned can help ensure this portion of the process does not needlessly cripple later actions in the VBMS environment.

As progress moves forward on VLER, The American Legion urges VA and DOD to ensure the Guard and Reserve records are an integral part of this consolidation from the beginning, and in the meantime urges VA to work diligently to ensure their employees at all levels understand the challenges inherent in tracking down records for the Guard and Reserve component.

Finally, The American Legion recognizes VA's own regulations to deal with lost records as indicative of the intent of this government to truly work to help veterans; even when through no fault of their own records are lost, as they can often be in a large bureaucracy like the military. However, the implementation of these regulations still leaves much to be desired in terms of consistency, yet with attention to training and enforcing consistency, VA could go a long way towards helping the unfortunate veterans whose records have been lost or destroyed.

Executive Summary

The American Legion is concerned with three key parts of VA's handling of electronic data in the new paperless environment.

1. No clear plan for scanning.
   a. VA has no clear, public plan for dealing with the scanning component of the VBMS, which is the gateway to much of their later data concerns
   b. The BDD sites currently have no scanning contract, and new claims are building up behind this like a tidal wave behind a logjam. This needs to be corrected.

2. Lack of coordination of data and communication with DOD, especially regarding Guard and Reserve component service members.
   a. Guard and Reserve records often wind up in multiple locations and can be confusing to track down.
   b. Guard and Reserve records must be a top priority for coordination with VLER and any data communication with VA and DOD
   c. VA employees need better training on tracking down records for these service members

3. Uneven application of existing regulations regarding absent or incomplete military records.
   a. VA has several regulations on the books to deal with incomplete or absent records, but they are inconsistently implemented
   b. VA's regulations on PTSD stressors for combat should also be extended to MST victims
   c. VA needs to enhance their training and consistency in implementation on these regulations.

Prepared Statement of Michael R. Viterna

Statement of the Problems

As a threshold matter, we would like to place the issue of veterans' benefits in the perspective it deserves. Benefits for veterans are unlike any other Federal benefit program and reflect Congressional intent to award "entitlements to a special class of citizens, those who risked harm to serve and defend their country. This entire scheme is imbued with special beneficence from a grateful sovereign."[1] Veterans have earned certain benefits from their military service and a paper driven system of records and a lack of service department records are impediments, if not preclusive, to the receipt of those benefits.

I. Transitioning to a Paperless Technology for Veteran Records

NOVA applauds VA's efforts to transition from a paper driven system of records to a paperless environment. While we recognize the magnitude of such an effort, we

[1] *Bailey v. West,* 160 F.3d 1360, 1370 Fed. Cir. 1998); see also *Jaquay v. Principi,* 304 F.3d 1276, 1286 (Fed. Cir. 2002) (en banc); *Hensley v. West,* 212 F.3d 1255, 1262 (Fed. Cir. 2000).

nevertheless want to be on the record encouraging VA to effectuate this transition in an expeditious manner. We are concerned, however, that any system implemented allows real time and complete access to a veteran's VA records, and will include the ability to file documents electronically in the same manner as that given claimant advocates by the Social Security Administration. Such access is not only necessary for advocates to effectively represent claimants before VA, but ultimately will greatly improve the time requirements and efficiency of processing claims.

First, fewer VA personnel will be required to not only handle the incoming and outgoing correspondence, but the inquiries by veterans and/or their representatives will also be significantly reduced.

Second, most veterans have multiple claims being processed at the same time. Often, these claims are at different stages of development, adjudication or appeal and each is dependent upon a single paper VA case file. For instance, a veteran may have a claim on appeal before the Board in Washington, D.C., have another being processed in the appeal section at the local VA Regional Office, and yet another claim in the initial stages of development. If the paper file is physically with the Board in Washington, the Regional Office typically cannot process other claims until the record is returned to that office.[2]

In addition, an electronic record system can include sufficient redundancies to virtually preclude lost or misplaced files as is currently a problem.

NOVA is willing to work with this Committee and with VA in the implementation of a paperless record system that will ensure real time and complete access to the advocates who represent claimants before VA.

II. Lack of Military Service Records

NOVA has been asked to address the impact of lost military service records upon the filing of a veteran's disability claim with VA.

A claim for VA disability compensation is dependent upon complete and accurate service department records because, to be successful, a claimed disability must arise from an in-service event. Under the law, establishing service connection generally requires (1) medical evidence of a current disability; (2) medical or, in certain circumstances, lay evidence of in-service incurrence or aggravation of a disease or injury; and (3) medical evidence of a nexus between the claimed in-service disease or injury and the present disability.[3] It is the second prong for establishing entitlement that we will be discussing, the in-service incurrence or aggravation.

The value of accurate and complete service records cannot be overstated in terms of its role in the fair adjudication of a veteran's claim for disability benefits. "[I]n the context of veterans' benefits where the system of awarding compensation is so uniquely pro-claimant, the importance of systemic fairness and the appearance of fairness carries great weight." *Hodge,* 155 F.3d at 1363. In the absence of these records, the burden unfairly shifts to the veteran to obtain alternative evidence, universally recognized to be of lesser probative value, or the result is a denial of benefits rightly earned.

The government's loss of service records poses difficult, if not insurmountable, obstacles for a claimant in proving the in-service incurrence element of his or her disability claim. These records include evidence of medical treatment, involvement in a mishap, travel, potential environmental exposure, and performance reports, among others.

Service medical records (SMRs) may document the occurrence of a disease or injury as well as treatment for any resulting medical condition. These SMRs will become incontrovertible evidence in establishing the in-service incurrence element of a veteran's claim and can also demonstrate the chronicity of the claimed condition. Travel records most commonly are used to demonstrate where a veteran served. This evidence is often lacking for temporary duty assignments but can be critical in establishing presence in an area of conflict (Vietnam) to specific sites where dangerous environmental exposure was later established (Camp Lejeune). In addition, performance and disciplinary records can serve to demonstrate behavioral changes that may be indicative of the onset of a psychiatric disability.

The following statutes deal with the evidence used in VA claims processing:

> 38 U.S.C. § 1154. Consideration to be accorded time, place, and circumstances of service. (emphasis added).

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[2] A claim for an increased disability rating may be an exception as new medical evidence regarding the current level of disability may be obtained and considered without benefit of the complete paper file.

[3] *See Hickson v. West,* 12 Vet.App. 247, 253 (1999); *Caluza v. Brown,* 7 Vet.App. 498, 506 (1995), *aff'd per curiam,* 78 F.3d 604 (Fed.Cir.1996) (table); *see also Heuer v. Brown,* 7 Vet.App. 379, 384 (1995).

(a) The Secretary shall include in the regulations pertaining to service-connection of disabilities (1) additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability **due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence ... .**

(b) In the case of any veteran who engaged in combat with the enemy in active service with a military, naval, or air organization of the United States during a period of war, campaign, or expedition, the **Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary.** The reasons for granting or denying service-connection in each case shall be recorded in full.

38 U.S.C. § 5107(b). Claimant responsibility; benefit of the doubt. (emphasis added).

(b) **Benefit of the doubt.** The Secretary shall consider all information and lay and medical evidence of record in a case before the Secretary with respect to benefits under laws administered by the Secretary. When there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, **the Secretary shall give the benefit of the doubt to the claimant.**

In terms of quality of proof and in spite of the statutory and regulatory provisions in place, none of these alternatives come close to service department records in terms of credibility and probative value. SMRs documenting treatment for an injury, disease or condition, for example, are indisputable proof of in-service incurrence. On the other hand, use of lay evidence for proving an in-service incurrence is problematic in several regards and is often simply not feasible. For example, providing buddy statements in support of a claim can be difficult or impossible to obtain given the years of separation between the event in service and date of claim. In addition, locating a fellow service member years after service separation can be very difficult and recollections can fade.

No matter how obtained, a buddy statement would thereafter be subject to a credibility determination by VA. In practice, VA adjudicators are frequently skeptical of lay statements prepared by the Veteran or a buddy well after the alleged in-service incurrence despite the applicable VA regulations and the body of case law that speaks to a claimant's ability to provide statements regarding symptoms capable of lay observation. [4]

In theory, lay assertions may serve to support a claim for service connection by relating the occurrence of lay-observable events or the presence of disability or symptoms of disability subject to lay observation. 38 U.S.C. § 1153(a); 38 C.F.R. § 3.303(a). In practice, however, lay evidence is frequently not sufficient to establish an in-service incurrence. Early on, the U.S. Court of Appeals for Veterans Claims concluded that it is clear "[t]he regulations regarding service connection do not require that a veteran must establish service connection through medical records alone." [5]

The Veteran's Claims Assistance Act of 2000 Pub. L. No. 106–475, § 3(a), 114 Stat. 2096, 2097–98 (2000) (VCAA) was intended to "reaffirm and clarify the duty of the [Secretary] to assist a claimant for benefits under laws administered by the Secretary, and for other purposes." H.R. REP. 106–781 at 4 (2000). It is well-established that VA has a duty to "make reasonable efforts to assist a claimant in obtain-

[4] *See Falzone v. Brown,* 8 Vet.App. 398, 406 (1995); and *Layno v. Brown,* 6 Vet.App. 465, 469–70 (1994) (lay evidence is competent to establish features or symptoms of injury or illness). See 38 U.S.C. § 5103A(d)(2) (Secretary is to take into consideration all lay or medical evidence of record, including statements of claimant).

[5] *Triplette v. Principi,* 4 Vet.App. 45, 49 (1993), citing *Cartright v. Derwinski,* 2 Vet.App. 24, 25 (1991). Over the succeeding years, the Courts have further refined the import and applicability of lay statements. *See e.g., Jandreau v. Nicholson,* 492 F.3d 1372 (Fed. Cir. 2007); *Buchanan v. Nicholson,* 451 F.3d 1331, 1336 (Fed.Cir. 2006) (addressing lay evidence as potentially competent to support presence of disability even where not corroborated by contemporaneous medical evidence).

ing evidence necessary to substantiate the claimant's claim." 38 U.S.C. § 5103A(a)(1). This duty is abrogated if "no reasonable possibility exists that such assistance would aid in substantiating the claim." See 38 U.S.C. § 5103A(a)(2) Whenever VA attempts to obtain records in federal custody, "efforts to obtain those records shall continue until the records are obtained unless it is reasonably certain that such records do not exist or that further efforts to obtain those records would be futile." *Id.*

Implications for Veterans

If its efforts in obtaining records are unsuccessful, VA then has a duty to inform the claimant of the records that could not be obtained, explain the efforts expended to obtain those records, and describe any further action to be taken by VA in respect to that claim. It is at this point that the burden is shifted to the veteran to use his own resources and employ alternative means to support his claim, as described *supra.* Unfortunately, in the absence of corroborating service records, veterans are either denied the benefits sought or the adjudication of the claim(s) is significantly delayed, as expressed in the examples that follow.

1. *Roy Johnson*

Mr. Johnson performed military duty from November 1967 to November 1969 and was assigned to the 57th Maintenance Company in Thailand. His duties involved the repair of small arms, but some artillery as well. On some occasions, he traveled via military aircraft from Bangkok to Saigon to pick up weapons for repair.

Years after service, Mr. Johnson developed one of the disabling conditions known to be related to Agent Orange, which was used in Vietnam. In April 2003, VA denied his claim for entitlement to service connection, because there were no service records to document this veteran's travel into Vietnam. The National Archives and Records Administration responded to VA that "[u]nfortunately, the 57th Maintenance is one of those units for which we do not have any records." In addition, the National Personnel Records Center responded that the Veteran's service in Vietnam was "not a matter of record."

Under VA regulations, the mere presence in Vietnam entitles a veteran to service connection if certain disabling conditions manifest themselves at any time after service. 38 C.F.R. § 3.307(a)(6). Mr. Johnson could not, however, establish his presence in Vietnam through service records.

In support of his claim, the veteran submitted a buddy statement from an individual who served with him in Thailand and Vietnam. Despite this corroborating evidence, VA continued to deny the claim and Mr. Johnson continued to appeal. His claim was subsequently presented to the U.S. Court of Appeals for Veterans Claims where a joint motion for remand occurred in March 2006 due to the presence of errors in how VA had previously adjudicated his claim. Upon remand, the veteran obtained pay records for his overseas service that showed he had paid no federal income taxes for several months, purportedly due to his "flying over Thailand." The matter again returned to the Court and VA's denial was ultimately reversed in an August 10, 2010 single judge decision (*Johnson v. Shinseki,* slip op 09–1192). The Court found that there was no negative evidence refuting the Veteran's assertions that he traveled on temporary duty to Vietnam, but that there was evidence in support of his claim. Of special note was the receipt of combat pay for a few months of his overseas duty. The Court went on to note that under Executive Order 11216, Vietnam, not Thailand or any other country for that matter, was designated as a combat zone during the time period relevant to this appeal. Accordingly, the Court took the rare step of reversing VA's denial of benefits finding that "the only permissible view of the evidence is contrary to the Board's (Board of Veterans' Appeals) decision."

While Mr. Johnson ultimately was granted the benefits he sought, his journey lasted more than nine years from the time his claim was filed until VA actually implemented the Court's decision. No official records were located documenting the veteran's service in Vietnam. The veteran took his own steps and obtained a buddy statement in support of his claim, but this was not sufficient. Finally, he was able to locate pay records that documented his presence in a combat zone, thereby verifying his presence in Vietnam, such that benefits were awarded, albeit by judicial order.

2. *Charles Johnson*

Mr. Johnson served from 1953 until 1957. Records of his service were destroyed in the 1973 fire at the National Personnel Records Center (NPRC). In November 1992, he sought entitlement to service connection for a number of medical conditions that he asserted had their onset during service. Due to a lack of evidence, VA de-

nied the veteran's claims but he appealed, which resulted in a remand from the Board in April 1995 to permit additional development of evidence. The matter returned to the Board, where it was remanded again in 1998 with orders to the VA Regional Office (VARO) to attempt to obtain "daily sick reports" or similar documents. NPRC responded that it had no medical records on file. In December of 1998, the Board remanded the matter for the third time, instructing the VARO to contact the United States Armed Services Center for Research of Unit Records (USASCRUR) and the Office of the Surgeon General. USASCRUR responded that it did not maintain morning reports from 1954 and the Surgeon General responded negatively as well.

Over the years, Mr. Johnson has submitted lay statements from friends and family that attest to the onset of his disabilities, but all have been discounted by VA. It is now 20 years later and the matter, for the third time, is before the Veterans Court.

3. *Albert Drake*

Mr. Drake served for 28 years in the U.S. Navy, retiring in February 1980. While in service, the veteran served for seven years as a nuclear reactor operator, participated in atomic/nuclear testing exercises, and served aboard several nuclear submarines.

In 1988, the veteran developed skin cancer, with multiple additional malignancies manifesting in the years that followed. He was diagnosed with thrombocytopenia in 2005. Skin cancer is recognized by VA to be a radiogenic disease, while his thrombocytopenia is not. A radiogenic disease is defined by VA regulations to be a disease that "may be induced by ionizing radiation." *See* 38 C.F.R. § 3.311(b)(2)(i)-(xxiv). He subsequently made claims for entitlement to service connection, but was denied in April 2003. In support of his claim, Mr. Drake submitted two medical opinions from dermatologists linking his skin cancer to the radiation exposure in service, one of which also linked his thrombocytopenia to ionizing radiation exposure. One doctor noted that the veteran had a history of multiple skin cancers on both sun exposed and non sun exposed areas. The veteran was raised in the Pacific Northwest, had no other radiation exposure outside service, and had no family history of skin cancer. In consideration of all the evidence, the veteran's private doctor went on to opine that "[t]his distribution is typical for radiation exposure."

In assessing the veteran's case, VA's Chief Public Health and Environmental Hazards Officer looked to the Navy's documentation of his exposure to ionizing radiation from 1957 until 1962. Based upon the recorded dosage, the VA doctor opined that "it was unlikely" that the veteran's claimed conditions can be attributed to occupational exposure to ionizing radiation in service.

In this instance, the veteran has alleged that his exposure to ionizing radiation was greater than documented by the Navy. He has stated that he served on nuclear submarines as late as 1976, while Navy records show his ionizing radiation exposure ended in 1962. As a consequence of this discrepancy, VA concluded that his radiation dose estimate was lower than the thresholds established that produce service-connected disabilities. Effectively, because official records did not document all of this veteran's occupational radiation exposure, VA has denied his claims. This matter has been on appeal for nearly ten years and is currently before the Veterans Court.

These examples do not reflect isolated cases. We have learned from the Vietnam Veterans of America, for instance, that in 3,956 issues remanded for veterans they represented between 2003 and 2001, military service records were missing in 954 issues.[6]

NOVA willingly offers to assist this Committee and VA in efforts undertaken to draft legislation to lessen the evidentiary burden for those veterans whose claims are adversely impacted by lost, missing or nonexistent military service records. This language could model that of Section 1154(b), as applies to veterans engaged in combat. Also, VA's fulfillment of its duty to assist by obtaining relevant records under 38 U.S.C. 5103A should be subject to reasonable timeliness standard.

What Should Be Done:

1. VA SHOULD, IN AN EXPEDITIOUS MANNER, CONTINUE THE TRANSITION FROM A PAPER RECORD ENVIRONMENT TO THAT OF A PAPERLESS SYSTEM THAT ASSURES FULL ACCESS TO A VETERAN'S VA FILE BY HIS OR HER APPOINTED REPRESENTATIVE. WE WOULD ENCOURAGE VA TO MODEL THE ADVOCATE'S ACCESS AFTER THAT USED BY THE SOCIAL SECURITY ADMINISTRATION.

[6] 325 due to missing service medical and unit records, 3,984 to obtain missing U.S. Army and Joint Services Records Research Center (JSRRC) records, and 245 for missing personnel records.

2. Require the Department of Defense to take immediate steps to keep adequate field records and reconstruct, to the extent possible, lost or nonexistent field records.

3. Introduce legislation to lessen the standard of proof for establishing in-service incurrence by modifying 38 U.S.C. § 1154 for veterans whose claims are impacted by lost, missing or nonexistent military service records. Additionally, language should be put in place to require VA to expeditiously fulfill its duty to assist as outlined in 38 U.S.C. § 5103A(a)(1).

Conclusion

NOVA offers to work with the Committee and VA to develop language to lessen the evidentiary burden for those veterans whose records were lost or destroyed through no fault of their own, where that evidence was necessary to establish the "in-service incurrence or aggravation of a disease or injury" required for an award of service connection.

Executive Summary

The National Organization of Veterans' Advocates, Inc. (NOVA) is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents approximately 500 attorneys and agents assisting tens of thousands of our nation's military Veterans, their widows, and their families to obtain benefits from the Department of Veterans Affairs (VA). NOVA members represent Veterans before all levels of VA's disability claims process. In 2000, the U.S. Court of Appeals for Veterans Claims recognized NOVA's work on behalf of Veterans with the Hart T. Mankin Distinguished Service Award. NOVA currently operates a full-time office in Washington, D.C.

NOVA willingly offers to work with Congress and VA in efforts undertaken to: (1) ensure an expeditious transition of veteran paper files to a paperless technology that assures full access to a veteran's VA file by his or her appointed representative (Social Security Administration model); (2) establish and maintain accurate and complete service department records by requiring the Department of Defense to take immediate steps to keep adequate field records and reconstruct, to the extent possible, lost or nonexistent field records; and (3) draft language to lessen the evidentiary burden for those veterans whose records were lost or destroyed through no fault of their own, where that evidence was necessary to establish the "in-service incurrence or aggravation of a disease or injury" required for an award of service connection by modifying 38 U.S.C. § 1154 and requiring VA to expeditiously fulfill its duty to assist by obtaining relevant records as outlined in 38 U.S.C. § 5103A(a)(1).

Veterans have earned certain benefits from their military service and a paper driven system of records and a lack of service department records impede, if not preclude, the receipt of those benefits. NOVA is willing to work with this Committee and with VA in the implementation of a paperless record system that will ensure real time and complete access to a veteran's VA records and will include the ability to file documents electronically. Such access is necessary for advocates to effectively represent claimants before VA, and ultimately will greatly improve the time requirements and efficiency of processing claims.

The impact of lost military service records upon the filing of a veteran's disability claim with VA is significant. A claim for VA disability compensation is dependent upon complete and accurate service department records because, to be successful, a claimed disability must arise from an in-service event. The value of accurate and complete service records cannot be overstated in terms of its role in the fair adjudication of a veteran's claim for disability benefits. In the absence of these records, the burden unfairly shifts to the veteran to use his own resources to obtain alternative evidence, universally recognized to be of lesser probative value. In the absence of corroborating service records, veterans are either denied the benefits sought or the adjudication of the claim(s) is significantly delayed.

The National Organization of Veterans' Advocates (NOVA) wants to thank the Subcommittee Chairman, the Ranking Member, and members of the Subcommittee for the opportunity to testify about the disability claims process at the Department of Veterans Affairs (VA). NOVA is honored to share our views for this hearing, "Wading through Warehouses of Paper: The Challenge of Transitioning Veterans Records to Paperless Technology."

NOVA is a not-for-profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents more than 500 attorneys and agents assisting tens of thousands of our nation's military Veterans, their widows, and their families to obtain benefits from VA. NOVA members represent Veterans before all levels of VA's disability claims process. This includes the Vet-

erans Benefits Administration (VBA), the Board of Veterans' Appeals (BVA or Board), the U.S. Court of Appeals for Veterans Claims (Veterans Court or CAVC), and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). In 2000, the CAVC recognized NOVA's work on behalf of Veterans when the CAVC awarded the Hart T. Mankin Distinguished Service Award.

NOVA operates a full-time office in Washington, D.C. Accompanying me today is our Executive Director, David Hobson, who will assist this Subcommittee and staff with any follow-up questions regarding VA's record keeping processes and the processing of disability claims when necessary service records are either lost or destroyed.

One of NOVA's regular functions is monitoring and commenting on VA rule making. In this regard, NOVA routinely submits comments on changes to Title 38 Regulations. This is an area of close scrutiny. NOVA also files challenges at the Federal Circuit in response to VA rule making when we believe veterans' interests are adversely affected. NOVA has addressed this Committee previously and appreciates the opportunity to do so again. The positions stated in this testimony are approved by NOVA's Board of Directors and represent the shared experience of NOVA's members in representing our veterans and their families in their pursuit of VA benefits.

NOVA's goals today are to work with Congress and VA in taking steps to ensure a successful and complete transition of veteran paper files to a paperless technology and to ensure accurate and complete service department records are made and maintained with open access to all qualified representatives of veterans. Additionally, we will suggest a means to lessen the evidentiary burden for those veterans whose disability claims depend upon service department records that are deemed lost or destroyed.

NOVA will present an overview of experiences and lessons learned from representing veterans and will provide several examples of what some veterans have had to endure when their service records have been lost or destroyed or perhaps did not exist in the first place. We will describe the hardships and delays that resulted. We will show how veterans are required to go to extensive efforts to prove their claim when, under the law, the Agency is required to give a veteran the benefit of the doubt. We also will describe some common scenarios of what a veteran must do to obtain evidence to substitute for service records.

Prepared Statement of Jeffrey C. Hall

Chairman Runyan, Ranking Member McNerney and Members of the Subcommittee:

Thank you for inviting DAV to testify at today's hearing examining how veterans' military records are collected, maintained, transferred and preserved by the Department of Veterans Affairs (VA), the Department of Defense (DOD) and the National Archives and Records Administration (NARA), as well as the status and future plans of all three agencies transitioning from paper records to digital records. I am pleased to offer some perspectives on how problems managing this massive volume of paper records have resulted in delays and denials for many veterans, and contributed to the enormous backlog of claims for veterans benefits.

Since 1920, DAV has offered free representation to veterans, their dependents and survivors seeking benefits and services from VA and other government agencies. In this capacity, DAV National Service Officers (NSOs) focus on educating injured and ill veterans about their benefits and the claims process, assisting them with filing claims for benefits and then by advocating on their behalf to ensure they receive all the benefits and services they have earned through their service. DAV has the nation's largest service program, with 100 offices located throughout the United States and in Puerto Rico and a corps of approximately 240 NSOs and 30 Transition Service Officers (TSOs). DAV provides free representation to veterans and their families with claims for benefits from the VA, the DOD, and other government agencies, representing more veterans than all other accredited veterans service organizations (VSOs) combined. Last year, DAV NSOs and TSOs assisted nearly a quarter million veterans and their families with their claims, obtaining over $4 billion in new and retroactive benefits. By helping veterans file more complete and accurate applications for benefits, DAV and other VSOs assist VA by reducing their workload and ensuring more accurate claims decisions.

Mr. Chairman, in order for veterans to begin receiving the benefits and services to which they are entitled, whether for disability compensation, vocational rehabilitation, employment, health care or other services, VA must first have sufficient evidence of their military service and usually their medical history as well. The integ-

rity of the entire benefits claims system is only as strong as the integrity of the evidentiary records supporting these claims. Thus, proper custody of military personnel and medical records is essential to the accurate and timely adjudication of veterans claims for benefits.

Most of the records needed to satisfy benefits claims are held in the constructive custody of the federal government, primarily by DOD, VA or NARA. Some crucial records may be held by State governments for those who have served in National Guard units. In addition, veterans often have private medical records that may be crucial to proving their claims. Whenever there are problems or delays in locating any of these essential records, veterans, their families and their survivors suffer. Having worked for almost two decades for DAV, most of that time in the field helping thousands of veterans with their claims, I have seen how lost or misplaced records lead to unjust decisions and unacceptable delays. I also know from my own military service that medical records can be lost even from the earliest moments after injuries occur, particularly when those injuries occur on the battlefield.

While serving in the United States Army in 1991, I was wounded outside of Kuwait City during the first Gulf War. I was medically evacuated by the United States Marine Corps, operated on by the United States Navy and hospitalized and air lifted home by the United States Air Force. After I arrived at Ft. Sam Houston, I learned there was no record of my arrival, and when I went to Division Headquarters the following day I was also told there was no record of my having been wounded or of my return. I went to the base hospital with no medical records and had to provide the details of my medical situation, which were then verified by examination. I did not know at the time that my records were missing, lost or otherwise, or that I would never be able to locate the records in the future. I never knew what medical procedures were performed because there is no record. Later I was informed the records would probably never be recovered because they were likely destroyed instead of being transported home. Whether this loss of medical records will one day lead to delay or denial of a VA benefit for me or my family remains to be seen, but there are literally thousands of veterans who have already been hurt by lost or misplaced records. Here are just a few recent examples from DAV's service files.

In May 2011, a United States Marine Corps Reservist and Operation Enduring Freedom (OEF) combat veteran filed his original claim for disability compensation with the VA regional office (VARO), claiming nine (9) disabilities, including traumatic brain injury and post-traumatic stress disorder. Nearly six months later, VBA acknowledged his claim by sending him a letter in November 2011, which indicated his claim would be assigned to a special team and expedited. However, no further action was taken on the claim until DAV contacted the VARO on March 29, 2012 to inquire about the claim's status. At that point, our NSO also apprised the VARO that there was nothing in the claims file or VA system indicating that the veteran's service medical records (SMRs) had been requested.

On April 3, 2012, our NSO was notified by the VARO that the veteran's claim was originally brokered to VA's training academy in Baltimore for initial development and then returned to the VARO. However, apparently no development had taken place until after our March 2012 contact, which is when the VARO requested all of the necessary medical examinations as well as the veteran's SMRs from VA's Records Management Center in St. Louis. All examinations were completed and associated with the veteran's file on May 11, 2012; however, as of August 2012, the case had not yet been sent to the VARO rating board for action. Upon inquiry, our NSO was informed by the VARO that while the examinations were completed, the VARO still had not received the veteran's SMRs from his Marine Corps Reserve unit and a follow up letter had been sent to the unit the previous day. The VARO did indicate that the claim might have moved faster if the veteran had his own copies of his SMRs. Latest information indicates the veteran recently made contact with his Reserve unit and was told his records would be sent to the VARO. As of this date, there is still no indication that the SMRs have been received or what, if any, further action has been taken since he spoke with his Reserve unit. What is clear however, is that this OEF combat veteran filed his original claim for disability benefits more than a year and half ago, and even today a decision still has not been made because his SMRs have never been obtained and reviewed.

There are many veterans who have been deployed to places such as Iraq or Afghanistan and the absence of service medical records is absolutely detrimental to a veteran's history and possible entitlements later. This is compounded when the case involves veterans, especially combat veterans of World War II, Korea or Vietnam, when technology or battlefield documentation pales in comparison to that of today. Unfortunately, the absence of records has often led to erroneous, inaccurate rating decisions from VA or extraordinarily lengthy delays in processing time. In the

case of a combat veteran, such as the USMC Reservist previously mentioned, the law is clear under title 38, United States Code, section 1154(b):

> "In the case of any veteran who engaged in combat with the enemy in active service . . . during a period of war, campaign, or expedition, the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran.

In some cases, it is the VARO that loses or misplaces veterans records. I was supervising a DAV field office several years ago where a veteran who was permanently and totally disabled and homeless was assisted by one of our NSOs in filing his claim for non-service connected pension, which is an income-limited benefit. The original claim was filed directly with the VARO in July 2004 with DAV as the POA holder; however, nearly nine months later, in April 2005, there was no status of the claim in VA's system, nor any record that the VARO had ever received the claim. Since our NSO physically submitted the claim in person, we had a date-stamped copy of our cover letter verifying the claim had been received by VA. However, when our NSO presented the copy to the VARO, it indicated that our VA date-stamped copy was not sufficient evidence that the veteran had filed the claim in July 2004 because the original document was not in the veteran's file. Ultimately the claim was granted but restitution of the nine-month gap back to the date of the original claim had to be resolved through the appellate process. Following a multitude of conversations with various VARO officials, including a Decision Review Officer, Service Center Manager, and Director and months of inactivity, the veteran's earlier effective date was granted by the Board of Veterans' Appeals four years from the time that the claim had been filed.

In another case, DAV represented an Air Force veteran who served during the Vietnam War in 1967 but did not file his claim for disability benefits until four decades later, in 2008. Initially the jurisdictional VARO requested the veteran's service medical and personnel records from the National Personnel Records Center (NPRC) and a medical examination was completed. The VARO compiled the veteran's service personnel records (SPRs), VA examinations and a multitude of private medical evidence. The case was reviewed but his claim was denied. In reviewing the denial decision, DAV's NSO quickly realized that the veteran's SMRs had not been considered because they were not in his claims file. According to information in the file, the VARO had sent a second request to the NPRC for the records but was informed by NPRC that the veteran's SMRs had previously been sent at the time of the original request. The VARO, however, had no record of receiving them or putting them in the veteran's file. Whether these crucial medical records were sent by NPRC together with the veteran's SPRs or separately is not clear; however, the VARO did receive the personnel records from the NPRC, so it seems more likely than not that NPRC also sent the SMRs. Nonetheless, the VARO made a formal finding that the SMRs were unavailable and notified the veteran that any further efforts to secure those records would be futile. Eventually, the case made it to the Board of Veterans' Appeals, where a decision was reached in October 2012 to remand the case back to the VARO to make further attempt to locate the veteran's SMRs, get a more recent VA examination, and ultimately reach a new decision. But without SMRs the VARO is likely to once again deny this claim. All of these examples involve systemic problems still occurring today, which could be significantly reduced, perhaps even eliminated, once there are paperless claims processing and record management systems in place at VA, DOD and NARA.

Mr. Chairman, vital military records can be lost in many ways. In my case, treatment records were lost before they even reached an Army records center. Medical and personnel records can be lost or misplaced inside military record centers, including at National Guard records centers in each of the fifty states, or at the NPRC in St. Louis, or during transit from the NPRC to a VARO, or at the VARO itself. Today there are tens of millions of military personnel files at the NPRC; a number that would be significantly higher were it not for the catastrophic fire in 1973 that destroyed about one-third of the 52 million military personnel files housed there at that time. There are also currently more than four million veterans' claims files containing DOD personnel and military records stored at VA's 57 regional offices and the NPRC. The maintenance and security of these paper files remains a significant challenge.

For example, this past August, the VA Office of Inspector General reported on claims folder storage at the Winston-Salem VARO and concluded that the volume and manner in which the folders were stored "impeded VARO productivity," "increased [the] risk of loss or misfiling," and "exposed [them] to potential water and fire damage." In fact, an engineering load-bearing study determined that the massive mountain of files piled ceiling high in the VARO "exceeded the capacity of the floor by approximately 39 pounds per square foot," risking a structural failure.

There are important goals that VA, DOD and NARA must simultaneously pursue in order to eliminate or minimize problems associated with lost or misplaced military records: improve management of paper records and archives, convert paper records into digital records, and develop new digital records storage and processing systems. This Subcommittee has spent considerable time over the past four years overseeing VA's efforts to transform its claims processing system into a modern, intelligent, paperless IT system, and there are some signs that progress is beginning to be made.

The problems plaguing the VBA claims process have been well documented: the number of claims filed each year is growing; the complexity of claims filed is increasing; the backlog of claims pending is staggering; and the quality of the claims decisions remains far too low. Over the past dozen years, the number of veterans filing claims for disability compensation has more than doubled, rising from nearly 600,000 in 2000 to 1.4 million in 2012; and in 2013 VBA expects to receive another 1.4 million claims. VBA's workload has more than doubled, but its workforce has grown by just over 50 percent, rising from 13,500 full-time employee equivalents (FTEEs) in 2007 to 20,750 FTEE today. Even with the hiring of thousands of new employees, the number of pending claims for benefits, often referred to as the backlog, continues to grow.

As of November 26, 2012, there were 899,540 claims for disability compensation and pensions awaiting decisions by VBA. Compared to the past two years, that is an increase of about 20% or 150,000 pending claims. Over the past year, VBA's expanded capabilities and efforts have slowed the backlog growth, and the level of the backlog rose only three percent over the past year. However, the number of claims pending longer than 125 days, VBA's official target for completing claims, has more than doubled over the past two years, rising from 255,678 on November 29, 2010, to over 600,000 today. At present, more than two-thirds of all claims pending have been at VBA for more than the target of 125 days and the average time it takes VBA to process claims is now more than 250 days. But more important than the number of claims processed is the number of claims processed correctly. The VBA quality assurance program, known as the Systematic Technical Accuracy Review (STAR), which is publicly available on VA's "ASPIRE" Dashboard, shows that over the most recent 12-month period ending in August 2012, VBA's rating accuracy has been 86.1 percent, a slight improvement over the prior year, although during the most recent three-month period that error rate rose slightly.

While attention remains focused on the size of the VBA claims backlog, it is important to recognize that eliminating the backlog does not necessarily reform the claims processing system, nor does it guarantee that veterans will be better served. The backlog is a symptom, not the root cause of VBA's claims processing problems. In order to achieve real and lasting success, the VBA must remain focused on creating a claims processing system that is carefully designed to decide each claim right the first time.

Recognizing that its infrastructure was outdated and ineffective, and that a rising workload could no longer be managed, VBA leadership in 2010 determined that it would be necessary to completely and comprehensively rebuild and modernize its claims infrastructure and processes. The Secretary of Veterans Affairs established an ambitious goal of zero claims pending more than 125 days, and all claims completed to a 98 percent degree of accuracy standard, and VBA outlined a three-year strategy to achieve that goal. Notwithstanding the fact that the VBA has attempted to modernize its claims processing system without success numerous times over the past half century, there are hopeful signs of progress.

VBA's latest transformation efforts began with a comprehensive review of the existing claims process, which included extensive outreach to VSOs. VBA launched dozens of experimental pilot programs and initiatives to test changes that might streamline operations or increase the quality and accuracy of decisions. In the second year, VBA analyzed and synthesized the results of this study and experimentation and finalized a strategy to re-engineer the entire claims process, focusing on three critical areas: people, process, and technology. Over the past year, VBA further developed, refined, and has now begun to deploy a new organizational model and a new IT system, known as the Veterans Benefits Management System (VBMS). By the end of 2012, VBA expects to have rolled out the new organizational

model for processing claims to all but a few VA regional offices (VAROs).The VBMSwill be operational in 18 VAROs by the end of this year, with full national deployment scheduled to be completed by the end of 2013.

Central to the VBA transformation strategy is the development of new technology, including the VBMS, the Stakeholder Enterprise Portal (SEP), an expanded e-Benefits system with VONAPPS Direct Connect (VDC), and the Virtual Lifetime Electronic Record (VLER) initiative. Amongst these, the most important is VBMS, which is the paperless, rules-based claims-processing work tool that VBA will use to create electronic claims files, manage workflow, and increase production, timeliness and quality for more than a million claims filed annually, 4 million claims files already located in VAROs, and tens of millions more in archives. Whether or not the VBMS will "revolutionize" VBA claims processing may not be known for years to come; however, the transition from paper-based processing to an intelligent, digital processing system is inevitable and VBA must complete it successfully.

From the beginning of the VBMS development, VBA has reached out to DAV and other VSOs to incorporate our perspectives, experience and expertise, including accommodating the important role that VSOs play in the claims process. Although there have been some obstacles to overcome, such as providing full access to rating decisions to VSOs who hold power-of-attorney (POA) for claimants, VBA continues to work in partnership with VSOs to ensure that claimants can be fully represented in the new digital environment.

The current iteration of VBMS, version 4.0, is a paperless claims process, from the creation of an electronic claims file, through the development and rating process. VBMS 4.0 also allows direct electronic submission of claims from e-Benefits' VONAPPS Direct Connect, thereby saving time and money required to scan paper documents. VBMS does not yet include the awards process, which continues to be done through its stand-alone application, but it is expected to be integrated into VBMS as part of a future update.

Although VBA, DAV and other VSOs are all encouraging veterans to file claims electronically whenever practical, there are and will continue to be paper claims filed for years to come. VBA, however, has implemented a new organizational model for processing claims that calls for all paper claims applications to be converted into digital data and then processed within the VBMS environment. When a new or reopened paper claim is received at a VARO, the veteran's claim will be established electronically in VBMS and then the paper file, along with any other existing paper files that may already exist or be associated with that veteran, will be sent to a scanning center where it will be converted into digital data and made a part of the new electronic claims file. This new "e-Folder" is then put into the VBMS work queue and processed in the same manner as claims filed electronically.

The decision by VBA to convert new paper-based claims as well as re-opened claims to digital data is an important milestone on the road to a paperless system. DAV is supportive of VBA's stated intention to process all future claims through this fully digital system, and we are actively collaborating with VBA to encourage as many claimants as possible to file their claims electronically, either through e-Benefits, or with the assistance of our services officers who will be able to file claims electronically through the SEP. However, there will still be claims filed on paper for the foreseeable future, and there still remain millions of veterans' claim files that may one day be reopened should they submit new claims or seek increases for current service-connected disabilities. It is imperative, therefore, that VBA maintain its commitment to converting legacy paper claims files whenever a new rating-related action must be made. This may require significant up-front investment by VBA in terms of resources, but in the long run it will pay dividends for VBA, and more importantly, veterans themselves. With VBMS being rolled out to the remaining VAROs throughout 2013, there will be an increasing volume of scanning required to convert legacy paper claims files, and thus an increased need for funding to support this vital conversion process. Although VBA has indicated that the anticipated FY 2013 budget contains sufficient funding for the digital conversion of claims files this year, it will be imperative that the FY 2014 budget contain sufficient funding to support the increased volume of scanning that will occur when all 57 VAROs are processing all of their claims through VBMS.

Additionally, over the next couple of years, Congress and VBA must also ensure that VBMS development and deployment receive all of the resources needed to be successful. New software improvements and updates are planned to be released about every two months in order to expand functionality and capacity, improve usability, and correct problems or bugs in the system. Congress must ensure that VBA's IT and GOE budgets contain sufficient funding for VBMS development, and funding intended to be used for VBMS must not be diverted to any other program or purpose.

Further, in order to complete the conversion to a paperless system, VBA must be provided with sufficient resources to incorporate other elements of the disability compensation claims process into VBMS, beginning with the Appeals Management Center, the Board of Veterans' Appeals, and the Court of Appeals for Veterans Claims. Subsequently, VBMS should incorporate its other business lines (Pension and Fiduciary, Vocational Rehabilitation and Employment, Education, Insurance and Loan Guaranty) in order to create a single unified, paperless benefits processing system.

In order to strengthen the management and preservation of veterans' military records, there are also some additional steps that should be taken. The federal electronic medical record initiative, including VLER, must be completed as soon as possible, to allow DOD and other public and private health care providers to transmit veterans' medical information seamlessly to VA. DOD and VA must also continue working with states to ensure the integrity of National Guard military records, as well as to improve the transmission of those records to VA in optimized digital formats adaptable to VBMS.

DOD and VA must also work together to create a lifelong electronic record system for all service members beginning at the moment of enlistment, and including all of their military medical and personnel records, including health records from VA and other public and private providers. The development of the Defense Personnel Records Information Retrieval System (DPRIS) now allows VA to get digital images of personnel records, and also allows veterans themselves to access them through VA's e-Benefits system. DPRIS, however, only maintains records for veterans who were discharged in 1996 or later, depending on their branch of service. DOD must continue to examine whether and how they might convert older personnel files to the DPRIS or its successor systems, just as VBA continues to make similar decisions about the conversion of legacy paper claims files. In this regard, DOD, VA, NARA and other holders of vital military records must develop comprehensive plans about when and how to convert legacy paper files into digital records. Among other considerations, such plans must weigh the costs involved, the danger of files being lost or damaged during conversion, and the cost-benefit of converting legacy files, many of which may never be accessed again.

Finally, as long as there remain paper files that must be stored, transferred and preserved, VA, DOD and NARA must have adequate controls in place, including regular independent audits, to assure the preservation and integrity of vital military personnel and medical records. In addition, as each of these agencies converts paper records to digital files, there must be sufficient oversight and control to ensure that original paper records are not lost or damaged during the conversion process.

Mr. Chairman, this concludes my testimony and I would be pleased to address your questions, or those of other Subcommittee members.

Prepared Statement of James G. Neighbors

Introduction

Chairman Runyan, Ranking Member McNerney, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss Department of Defense (DoD) efforts to ensure military health, personnel, and other records are properly and efficiently maintained and shared with the Department of Veterans Affairs (VA) in a timely and effective manner. In this testimony, I will cover how DoD captures and transfers to the VA, Medical and Personnel records for Active and Reserve Component Service members while in deployed or in garrison status. DoD leadership is keenly aware of the importance of military records as they pertain to the VA disability claims process. Improving the system for which our Service members and Veterans receive their well-deserved and earned benefits is a top priority of both departments.

Overview of Policy and Procedures Governing the Life Cycle of Medical Records

Medical and dental records of all Service members, Active Duty, Reserve, and National Guard, are created when a person enters military service at the Military Services' Reception/Training Centers using the Applicant's Record Packets. An Applicant Record Packet contains an entrance physical examination, vaccination records, adult preventive and chronic care flow-sheet, and associated chronological medical and dental care documentation. The information is then transferred to the Medical Treatment Facilities (MTF) and Dental Treatment Facilities (DTF) at the Service member's first Permanent Duty Station. If the Service member is affiliated

with a Reserve or National Guard unit, the records are transferred to the applicable Reserve or Guard units.

Maintenance of DoD Service Member Medical and Dental Records

Medical and dental records are maintained at the MTF and DTF at the Active Duty Service member's base location, and consistently transferred with the Service member as he or she moves to a new military installation throughout his or her career. All Reserve and National Guard members' applicable medical and dental records are maintained at their assigned unit location and will remain there until the member transfers to a different unit.

When Service members are deployed in combat supporting contingency operations overseas, medical and dental records are additionally maintained at the forward operating base aid station or clinic. When the Service member's deployment has completed, all records transfer back to the home station MTF and DTF, or to the servicing Reserve/Guard units for members of the Reserve and National Guard.

As Service members out-process for transition or retirement, the MTF and DTF where the Service member is stationed conducts a review that includes known combat records and outpatient records, for completeness.

Capturing Care Delivered in Garrison and Theater

Implemented worldwide in 2006, the Armed Forces Health Longitudinal Technology Application (AHLTA) is the current DoD electronic Health Record system. This electronic health record captures and stores structured data in the AHLTA Central Data Repository (CDR), giving health care providers worldwide, secure, around-the-clock access to electronic health information to support DoD's highly mobile Service members and beneficiaries. Records in the AHLTA CDR are retrievable at nearly 900 fixed and deployed medical and dental treatment facilities. The Theater Medical Information Program-Joint (TMIP–J) is an integrated suite of software solutions that includes AHLTA–Theater (AHLTA–T) and supports military readiness and health care quality with a modular, scalable version of AHLTA to operate in low to no communications environments such as in theater and aboard ship. AHLTA–T captures outpatient encounter records in theater and transfers them to the CDR. The information in the AHLTA CDR is available to VA immediately through a data feed known as the Bi-directional Health Information Exchange (BHIE).

Active Component Personnel Records

Active Component Service members' official personnel records are managed separately from medical and dental records. Personnel data VA requires to adjudicate benefits claims, with some exceptions, is contained on the paper DD Form 214 (*Certificate of Release or Discharge from Active Duty*), which the Service member receives upon separation from the Service. The Military Departments routinely provide this same personnel data to the Defense Manpower Data Center (DMDC). DoD also provides this information electronically to a VA repository known as the VA DoD Identity Repository, commonly referred to as VADIR.

Prior to the mid-1990s, a Service member's Official Military Personnel File (OMPF) was mailed to the National Personnel Records Center (NPRC) in St. Louis, Missouri when he or she left military service. These OMPF records are still maintained by the National Archives and Records Administration (NARA) and are currently available for VA through the NPRC. VA routinely accesses these records, and DoD maintains financial responsibility for servicing and storing them.

Since the mid-1990s, the Services have scanned paper records of the OMPF and store them as images in Service-specific digital record management systems. Since 2002, DoD has provided VA with access to Service-specific personnel records using the Defense Personnel Records Information Retrieval System (DPRIS). Starting in 2007, DPRIS has been available to VA claims adjudicators in a secure, web-based application.

Reserve Components Personnel Records

DoD maintains, for the most part, separate personnel data systems for our Reserve Components, but with the same goals – to leverage electronic data capabilities and afford access to VA. The Reserve Components Common Personnel Data System (RCCPDS) forms the basis for official strength accounting, an authoritative source of identity information for identification card issuance, and personnel information for the identification of eligibility for federal benefits and entitlements. Each Reserve Component (RC) reports personnel data for a specific purpose in a licensed DoD reporting requirement. DMDC specifies procedures to collect, manage, and maintain this personnel data and in addition maintains a bi-directional interface with the VA for the management of this data.

The personnel systems of the Military Services remain the systems of record, and the Services have responsibility to maintain the complete military record for each Service member. RCCPDS is an information source, through electronic reporting, to satisfy VA's information needs. The RC Active Service Transaction File, for example, provides a key source for the electronic information contained on the DD Form 214 for RC Service members, such as periods of active duty, and the characterization of service.

Other Personnel Administrative data

DoD captures other personnel administrative data which VA requires to adjudicate benefits for Active, Reserve and Guard Service members in the Defense Enrollment Eligibility Reporting System (DEERS). DEERS is a series of databases that provide timely and accurate information on benefits and entitlements prescribed in DoD policy and published instructions. DEERS serves as the definitive centralized source of identity, enrollment into TRICARE, and eligibility verification for members of the Uniformed Services, other designated personnel, and their eligible family members. In addition, DEERS provides statistical and demographic information to support the DoD Components and serves as the National Enrollment Database for the Military Health System (MHS) benefits eligibility and TRICARE enrollments for medical care services. DMDC has shared DEERS data electronically with VA since November 2000. It is currently transmitted to VA's VADIR system mentioned earlier.

Deployed unit location accountability

With respect to the Department's ability to identify and account for locations and records of units deployed to Iraq and Afghanistan, we have applied lessons learned from previous conflicts and have greatly enhanced our capability in this area to include the following:

The Joint Services Records Research Center (JSRRC) provides unit information/deck logs to VA for Post-Traumatic Stress Disorder (PTSD) via DPRIS. JSRRC has responded to Veterans' claims and initiatives since 1980 and conducts PTSD claims research. The DoD Persian Gulf Registry, for which the Army is the Executive Agent, is a database that contains the names of 758,000 personnel and more than 900,000 daily locations of units to which these personnel were assigned while in the Persian Gulf.

Unit Location and Environmental Hazards

DoD recognizes the importance of linking environmental hazard data and unit locations and works closely with the VA to provide exposure data to adjudicate disability claims as required. Since the 1991 Gulf War DoD has implemented programs and policies to better address the health protection of deployed Services members for both acute and latent/chronic health conditions that may result from environmental health hazard exposures. Occupational and environmental health assessments are conducted at deployed camps soon after they are established to document baseline monitoring of the air, water, and soil for hazardous agents. In addition, annual occupational and environmental monitoring summaries are completed at major deployment locations to identify any changes in occupational and environmental health exposure risks and associated health implications. Exposures of concern are promptly investigated and if there is a likelihood of latent/chronic health effects, special medical surveillance programs are established, such as in response to the chromium exposures at the Qarmat Ali Industrial Water Treatment Plant in Iraq. When appropriate, exposure registries are created for a specific event, as we did in response to the Operation Tomodachi Fukushima Nuclear Power Station accident in Spring 2011.

DoD continues to improve systems and processes that document exposures during deployments and we are working on an Individual Longitudinal Exposure Record (ILER) concept, a joint DoD/VA initiative to create a complete record of Service members' exposures over the course of their careers. ILER will create exposure registries based on location, date, time, and exposure agent, which will support contemporary benefits claims as well as retrospective studies. This concept will assist Service members and veterans in showing that their disabilities were caused by their service. Exposure alone does not always lead to illness or injury; VA relies on scientific evidence to determine when there is a link between exposure to environmental hazards and specific illnesses or injuries that would make Service members or veterans eligible for VA disability benefits.

Transfer of Records to VA

It is DoD policy to transfer medical and dental records to VA when a Service member leaves Active Duty due to retirement or discharge. We currently transfer

personnel and medical records data to VA for over 300,000 Service members annually both in paper and the majority via electronic interface.

MTFs and DTFs provide the Service member's complete dental records to the appropriate Military Service Personnel Out-Processing Centers within 30 business days of member's retirement or discharge. TRICARE (i.e. military) and civilian doctors' consultation results documentation are included in the Service member's medical record jacket. The Military Service Personnel Out-Processing Centers (or a designated equivalent entity by the Service) then transfers the medical and dental records and a paper copy of the DD Form 214 to VA.

DoD provides the data contained on the DD Form 214 electronically to VA within 7 days of the Service member's retirement or discharge to use in the benefits adjudication process. The DD Form 214 is an official source of information needed to demonstrate eligibility for Veterans benefits administered by VA, state and local governments. The "remarks" section contains a number of additional entries, such as confirmation that a first term of enlistment had been completed, whether the Veteran is subject to recall or annual screening, and dates of contingency operation participation. DoD policy requires two paper copies of the DD Form 214 to be physically delivered to the separating Service member upon transition from the Service. If the Service member is not available at separation, these copies are mailed to him or her. The separating member may also elect to have a copy mailed to the state office of Veterans Affairs where he or she will reside.

Sharing Health Data to Ensure Continuity of Care

Current exchanges of health care information support continuity of care for wounded and injured Service members by enabling:

- Transmission of electronic historical information at the time of separation;
- Access to electronic health information for both VA and MHS patients by both DoD and VA;
- Sharing of computable outpatient pharmacy and medication allergy data on shared patients; and the
- Availability of radiology images and scanned medical records at VA Polytrauma Rehabilitation Centers to support continuity of care for our most severely wounded and injured Service members.

The DoD/VA Bidirectional Health Information Exchange (BHIE) initiative is an inpatient and outpatient health data sharing capability. DoD affords VA clinicians and benefits claims specialists with access to health data on more than 4.6 million patients. DoD and VA clinicians currently access each other's health data in real time, for information pertaining to: allergy, outpatient pharmacy, inpatient and outpatient laboratory and radiology reports, demographic data, diagnoses, procedures, vital signs, problem lists, family history, social history, other history, questionnaires, outpatient encounters, periodic health assessments, and theater clinical data, including inpatient notes, outpatient encounters, and ancillary clinical data (such as pharmacy data, allergies, laboratory results, and radiology reports). BHIE also provides bi-directional access to inpatient notes (including discharge summaries, inpatient consultations, operative reports, history and physical reports, transfer summary notes, initial evaluation notes, procedure notes, evaluation and management notes, pre-operative evaluation notes, and post-operative evaluation and management notes) from DoD's inpatient documentation system.

Moving Toward a Joint Integrated Electronic Health Record

DoD and VA recognize access to the other Departments' health records is a necessary capability to provide a "single system experience of lifetime services". As we move forward in this effort, we are also continuing to improve the current systems and processes serving our transitioning Service members and Veterans. We are working collaboratively with VA to develop and implement an interim electronic data sharing solution that will feature shared access to electronic medical records. In January 2011, the VA–DoD Benefits Executive Committee approved a recommendation from the Medical Records Working Group to leverage ongoing work in the Military Health System in conjunction with the Veterans Health Administration to develop and deploy a scanning solution known as the Health Artifacts and Image Management Solution (HAIMS), a secure web-based technology solution. DoD has incorporated Veterans Benefits Administration's (VBA) known Information Technology requirements into the current version of HAIMS, which is in testing and on track for accelerated deployment by September 2013. All loose paper medical documentation will be scanned into HAIMS allowing VBA claims adjudicators direct access to scanned medical data in the HAIMS repository or access to the information via an interface between VBA's internal systems. Although DoD Service Treatment

Records remain a hybrid of paper and electronic records, approximately 60 percent of the DoD health information is available electronically and only 40 percent paper bound, HAIMs will greatly increase the percentage of electronically available health information. Currently VBA personnel can access DoD health data electronically through an electronic data exchange.

DoD and VA are currently planning the development and acquisition of a joint integrated Electronic Health Record (iEHR) to replace legacy DoD and VA EHRs. The iEHR will unify the two Departments' EHR systems into a common system that will ensure DoD and VA health facilities have Service members' and Veterans' health information available throughout their lifetime. By implementing a single, common health record for DoD and VA medical facilities, the iEHR will ensure information about injuries and illnesses incurred during military service remain available for health and benefits purposes throughout a person's lifetime, supporting patient safety and continuity of care and facilitating access to and delivery of benefits. Seamless information sharing is expected to support the expedient processing of disability claims in the future.

The joint iEHR will be deployed in increments based on prioritized functional community needs, technical feasibility, and financial viability. The initial iEHR capabilities, laboratory and immunizations, will be delivered to two sites (San Antonio, Texas and Hampton Roads, Virginia) by the end of 2014. The capabilities of the iEHR will be increased incrementally through the end of 2017.

Virtual Lifetime Electronic Record (VLER)

Virtual Lifetime Electronic Record (VLER) is a joint initiative which will ultimately allow Service members' and Veterans' electronic administrative and personnel information to be shared seamlessly among DoD, VA, and other appropriate federal and private sector healthcare providers. VLER is a broad, multifaceted, business and technology initiative that leverages existing DoD and VA investments by synchronizing information sharing across multiple agencies. It includes a portfolio of health, benefits, personnel and administrative sharing capabilities. When fully implemented, it will establish a relationship with Service members and Veterans that begins the day they enter Military service, and maintains that relationship throughout their lifetime, proactively providing them with benefits and services. The VLER Health Initiative supports the portability and accessibility of Service members' and Veterans' electronic health information between VA, DoD, and other federal and non-federal exchange partners for the purpose of health care delivery. To date, the VLER Health initiative has focused on the exchange of medical information for health care services among DoD, VA, and private sector providers at joint pilot site locations. Through these VLER Health pilots, DoD, VA, and private partners successfully leveraged the Nationwide Health Information Network to exchange an initial set of clinical information needed for health care delivery through four initial pilots in the San Diego, California; Tidewater, Virginia; Spokane, Washington; and Puget Sound, Washington regions.

VLER Health is exploring additional innovative technology, such as the Office of the National Coordinator for Health Information Technology Direct Project, a Health Information Portability and Accountability Act-compliant electronic health information exchange over the Internet through secure email. Direct Project provides an affordable approach to health information-sharing among DoD, VA, and private sector providers, which is intended to increase adoption of EHRs throughout the health industry. Specifically, it will provide a mechanism for including private provider medical reports into the DoD and VA EHRs or the joint DoD/VA integrated EHR (iEHR).

The VLER Benefits initiative supports the portability and accessibility of Service members' and veterans' electronic health and administrative information among DoD, VA, and other appropriate federal exchange partners for the purpose of benefits determination and delivery. This will ultimately result in standardized delivery of health information to VA benefits adjudicators, decreasing processing time and more efficiently supporting our Nation's wounded warriors and other transitioning Service members.

A key feature of VLER Benefits is the development of a DoD Self-Service (DS) Logon. To date, DS Logon has provided more than 2 million Service members and veterans with a log-on ID which allows them access to the eBenefits portal to view their personal data. The eBenefits portal provides Service members and veterans with more than 40 self-service features, such as the ability to apply and track application for Loan Guaranty Certificate of Eligibility and Veterans Retraining Assistance Program.

To further understand the issue surrounding our journey to a paperless future, we are conducting monthly DoD/VA Data Sharing Summits to bring Senior Execu-

tive-level DoD and VA stakeholders together to one forum to discuss the health and administrative information sharing processes and obtain resolution to known issues. This forum establishes DoD/VA information sharing priorities and tracks progress against identified activities. There are also regular meetings with interagency partners and internal DoD agencies, such as Social Security Administration and the Office of the Assistant Secretary of Defense for Health Affairs, to collaborate on information exchange efforts and resolve identified obstacles.

Conclusion

The Department of Defense is committed to a future that eliminates reliance on paper-based record keeping and the warehouses that support it. DoD is also committed to developing the capability to provide VA with requisite information to facilitate a single system experience of lifetime services. As we move toward electronic exchange of information in real time, it is giving DoD and VA the added benefit of improving inter-agency processes based on information requirements, unencumbered by legacy forms or manual, paper-based exchange of information.

Mr. Chairman, thank you again for your generous support of all Service members, Veterans and their families. I look forward to your questions.

Attachment A - Answers to questions within the hearing

If there is a loss of unit level records, there is a standard process in place. The medical care provided to Service Members is documented in the Army Forces Health Longitudinal Technology Application (AHLTA). If the medical record is lost, the documentation within AHLTA can be printed to re-create the Service Member's medical record.

Attachemnt B & C - Answers to questions within the hearing

The review process began with the implementation of DODI 6040.45, "Service Treatment Record (STR) and Non-Service Treatment Record (NSTR) Life Cycle Management," on October 28, 2010.

Prior to release of medical documentation, the medical record is reviewed to ensure that all requested information is placed in the chart. If documentation is missing, the chart is compared to Armed Forces Health Longitudinal Technology Application (AHLTA) or the appropriate health information system to ensure that all requested documentation has been printed. A certification letter is provided to the VA that outlines all attempts have been made to ensure that the Service Treatment Record is as complete as possible.

Prepared Statement of Scott Levins

Good afternoon Chairman Runyan, Ranking Member McNerney, and members of the Subcommittee. Thank you for calling this hearing and for your attention to issues surrounding the management of records which document the service of our nation's veterans. I am proud to represent the staff of the National Personnel Records Center (NPRC or Center), many of whom are veterans themselves, and pleased to appear before you today to discuss the work that the National Personnel Records Center does to serve those who have served. We appreciate your interest in this important work.

The NPRC is an office of the National Archives and Records Administration (NARA). Located in multiple facilities in the St. Louis, Missouri area, the Center stores and services over 4 million cubic feet of military and civilian personnel, medical and related records dating back to the Spanish-American War. In 2000, Congress provided NARA with a revolving fund that allows NARA's Federal Records Centers Program, including the NPRC, to function on a cost-reimbursable basis. Accordingly, NPRC no longer receives annual appropriations for its Records Center Program, and instead charges each agency the full cost of servicing their records.

History of NPRC's Military Records Program

In the mid 1950s, the Department of Defense (DoD) constructed the Military Personnel Records Center in Overland, Missouri. In the years that followed, military personnel, medical, and organizational records of each military service department were relocated to this facility. In 1960, the Center's functions were consolidated and transferred to the General Services Administration, to be managed by NARA's predecessor agency, the National Archives and Records Service (NARS), as a single program, leveraging economies of scale to improve efficiency and offering a central point of access for military service records.

When the Military Personnel Records Center was constructed in the 1950s, it was not equipped with a fire suppression system. In 1973, a massive fire at the Center destroyed 16–18 million records documenting the military service of Army and Air Force veterans who separated between 1912 and1964. Though the fire occurred almost forty years ago, the Center continues to service approximately 150,000 requests per year which pertain to records lost in the fire. When responding to fire-related requests, technicians attempt to reconstruct the basic service record by using auxiliary records such as pay vouchers and/or by obtaining documents from other official sources. Though the Center is normally able to reconstruct basic service data, it is often impossible to reconstruct complete records.

In the Spring of 2011, NPRC's military records facility began a relocation into a new building designed to meet updated facility standards for storing permanent Federal records. The facility is located in North St. Louis County, approximately 15 miles from the Overland location. The relocation of records into the new facility was completed last month.

Ownership of Records

In the late 1990s, NARA determined that Official Military Personnel File (OMPF) records were of enduring, archival value warranting permanent retention in the National Archives of the United States. As part of the appraisal process in preparing a formal records disposition schedule for OMPFs, NARA worked with the DoD and the military services to determine the appropriate "offer date": that is the date on which a permanent series of records becomes eligible to be offered by an agency for legal transfer to NARA. NARA, DoD, and the military service departments agreed to fund a study to examine a sample of requests for military personnel records and correlate the purpose of each request with the veteran's year of separation. The survey found that on average, sixty-two years after a service member completes his/her obligated service, the purpose for which his/her records is referenced changes from a primary use (such as pursuit of an entitlement) to a secondary use (such as scholarly research or genealogy). Based upon that study, in 2004 the OMPF series was formally scheduled for permanent retention, with the legal transfer of ownership to NARA to occur 62 years after the completion of a member's obligated service.

When records have been transferred to the legal custody of the National Archives, they become available with fewer restrictions to public researchers. They also become subject to a public fee schedule. However, NPRC waives fees related to service records in instances where the requester indicates that the records are needed to pursue any type of benefit derived from the veterans' military service. Statistical data indicates that NPRC waives fees in approximately 60% of the instances where archival records are requested, indicating higher than expected primary use for benefit-related inquiries.

Funding NPRC Services

From the time NARA assumed responsibility for managing the Military Personnel Records Center in 1960 through Fiscal Year 1999, the Center was funded through annual appropriations for NARA's operating expenses. In Fiscal Year 1999, Congress established an inter-agency revolving fund to finance NARA records center storage and related services. The Records Center Revolving Fund (codified in the note accompanying 44 U.S.C. § 2901) allows NARA to operate our network of Federal Records Centers, including NPRC, in a business-like manner. NARA pays for the operating costs of our Federal Records Centers from the revolving fund and then recovers those costs by charging federal agencies for the full cost of the records storage and related services that they consume. Our customer Federal agencies pay the Records Center Revolving Fund from their appropriations. The revolving fund structure allows the government to benefit from the economies of scale that come from centralized records storage facilities.

Accordingly, since Fiscal Year 2000, the military services must reimburse NARA for most of the costs of operating the military personnel records facility. NARA charges the military services for storage and related services for records less than 62 years old, which are in NARA's physical custody but are legally owned by the services. NARA does not charge the services for the storage and servicing of military records older than 62 years, which are owned by NARA. NPRC staff continue to provide reference service on the holdings after transfer, but NARA, rather than the military service, is charged to recover the costs of providing the reference services. NARA reimburses the NPRC from annual appropriations for that purpose, and is charged the same rates that are charged to the military departments for these services.

Currently, NARA furnishes its customer agencies a detailed invoice on a monthly basis listing work volumes and charges for each service provided. The bulk of the

cost of operating NPRC is related to responding to personnel-related correspondence requests. NPRC services more than one million such requests annually.

Process Improvements

To improve efficiency and service delivery, in the early 2000s NPRC embarked on a multi-year business process re-engineering project (BPR) that featured the deployment of modern technology to automate processes and expand citizen access, and required its workforce to participate in re-training.

Innovations included web portals for public and Federal agency requesters, extensive request and record tracking, automated work assignments, automated request servicing, a unique, career advancement program that requires passage of competency exercises as a pre-requisite to promotion, and an innovative, competitive incentive program.

Today, approximately 40% of our public requests are received electronically and over 8,000 Federal employees at agencies such as the Department of Veterans Affairs (VA), the Office of Personnel Management (OPM), and the Social Security Administration (SSA) electronically interface with NPRC from their desktops to obtain the information they need to, for example, adjudicate medical claims for disabled veterans, conduct background checks for security clearances, and process claims for social security benefits.

In the years that followed the BPR, NPRC has achieved a significant reduction in the backlog and has greatly improved its response times. The average turnaround of a completed request was reduced from 76 days in 2002 to 10 days (achieved during Fiscal Year 2012). Overall customer satisfaction with the handling of requests improved from 78% of respondents indicating either "mostly" or "completely" satisfied during the summer of 2002 to 90% in the summer of 2012.

Servicing Reference Requests

Today NPRC holds approximately 60 million official military personnel files. Its holdings also include service treatment records, clinical records from military medical treatment facilities, auxiliary records such as pay vouchers and service name indexes, and organizational records such as morning reports and unit rosters. NPRC stores these records in both textual and micrographic formats.

NPRC's military records facility receives between 4,000 and 5,000 correspondence requests each day from veterans, their next of kin, various Federal agencies, members of Congress, the media, and other stakeholders. It responds to 70% of these requests in ten business days or less. Nearly half of these requests come from veterans seeking a copy of their separation statement (the DD–214) because they need it to pursue a benefit. The Center responds to 90% of these types of requests in ten business days or less.

In servicing correspondence requests, NARA technicians must verify the authorization of the requester; identify the responsive record; extract, print or copy the responsive documents or information; redact third party personal privacy information often prevalent in these records; certify reproductions as authentic by applying a raised seal; generate a response letter (using pattern paragraphs to simplify the process); and prepare the documents for mailing.

NPRC also responds to Freedom of Information Act (FOIA) requests for records within its holdings for all the military services. During FY 2012, NPRC responded to a total of over 10,000 FOIA requests and responded to 90% of them in twenty business days or less.

Searching for Records

As described above, NPRC receives 20,000 – 25,000 correspondence requests each week. In these instances, an automated assignment application assigns the request to a NPRC technician based on pre-defined rules regarding the complexity of the request, the grade and skill level of the technician, the availability of the technician, and the amount of requests already assigned to the technician. In concert with assigning a request to a technician, the system also attempts to identify the file from NPRC holdings that might contain the responsive record. In some instances the system is able to use pre-defined logic to identify the responsive file and order it to be retrieved from storage and delivered to a correspondence technician. In other instances, a correspondence technician must perform some analysis to identify the file and order it to be retrieved from storage.

In addition to the correspondence work discussed above, the Center receives between 5,000 and 7,000 requests each week from the VA and other Federal agencies requiring the temporary loan of original records. These requests are normally serviced within 2–3 business days. In the case of the VA, nearly every day it provides an electronic file which is uploaded into NPRC's system. The electronic file is comprised of new requests for the temporary loan of original records. After the respon-

sive files have been identified and ordered, NPRC staff attempt to locate and retrieve the files from storage. When files are retrieved from storage, bar code technology is used to track the files. At the end of the cycle, when files are returned to NPRC, they are placed back into their original locations and bar code technology is used to verify accuracy.

When files are returned to NPRC after having been loaned to the VA, often times documents have been removed from the military service record and incorporated into a VA claim folder which remains with the VA.

VA staff have the required licenses and credentials to access data in our production system and data warehouse. Likewise, NPRC staff are authorized and credentialed to access the VA's Beneficiary Information and Records Locator Subsystem (BIRLS) to assist in performing research that is often required to identify responsive records or reconstruct records.

In instances where NPRC is unable to respond promptly to a request, the biggest obstacle is normally our inability to retrieve the responsive file. For example, delays may be experienced if a file is currently charged out to another office, undergoing extensive preservation treatment (e.g., because of the 1973 fire) or determined to have been destroyed in the 1973 fire.

In instances where a responsive record is not located on a first search attempt, the results are analyzed to determine the next course of action. In most instances, a second search (also called "Verification Search") is conducted by a more experienced staff member. Sometimes this second search involves trying to secure a file that is charged out to another agency, or actively moving through the order fulfillment process. Other times it involves analyzing data elements on the request to determine if an error has been made by the requester (eg. inaccurate service number, variation of the veterans' name, inaccurate dates of service, etc.).

In instances where a responsive record cannot be located, NPRC technicians will attempt to reconstruct the basic service record by using alternate sources of information. Technicians will search through auxiliary records, such as pay vouchers, to find evidence of service dates and character. They may also search through organizational records, such as unit rosters and morning reports. These are especially helpful when trying to locate evidence of a particular event, such as a combat-related injury. Technicians also query external agencies for information which can be used to verify service data. For example, technicians often obtain military service documentation from VA Claim Folders. Once a technician has verified from official sources the dates and character of service, they prepare a certificate (NA Form 13038) which can be used in lieu of a DD Form 214 to secure benefits.

The NPRC No Longer Stores all Military Personnel–Related Records

Sometimes we are unable to provide the requested records because they are not located at the NPRC. Despite the original idea in 1960 for the NPRC to serve as the sole central repository for information needed to verify veterans' rights and benefits, beginning in the early 1990s, the military service departments stopped retiring medical records, now called service treatment records, to NPRC and instead retired them directly to the VA. As a result, the NPRC does not have direct access to modern service treatment records. This change was implemented by the Army in 1992; the Air Force, Navy and Marine Corps in 1994; and the Coast Guard in 1998.

In the late 1990s and early 2000s, the military service departments also stopped retiring official military personnel files to NPRC, instead retaining them in-house in electronic formats. This change was implemented by the Navy in 1995; the Marine Corps in 1999; the Army in 2002; and the Air Force in 2004. The Coast Guard continues to retire hardcopy personnel records to NPRC.

The electronic personnel records systems employed by the military services vary, but DoD maintains a web-based application called the Defense Personnel Records Information Retrieval System (DPRIS), which acts as a conduit to retrieve imaged documents from each of the Services' electronic systems. DPRIS is maintained by the Personnel and Readiness Information Management (P&R IM) Office of the Undersecretary of Defense (Personnel and Readiness) ((OUSD (P&R)).

The military services use their electronic personnel records systems to respond to routine correspondence requests from veterans and other stakeholders. With the exception of the Department of the Army, the NPRC refers correspondence requests for these records to the appropriate military department for servicing.

In 2007, the Department of the Army entered into an agreement with NARA to allow NPRC to access DPRIS to retrieve electronic personnel records for the purpose of responding to routine correspondence requests from veterans and other stakeholders. As a result of that decision, NPRC referrals to the Department of the Army were reduced by approximately 2,500 requests per month.

The Air Force, Navy, and Marine Corps continue to service their own personnel records and respond to routine correspondence requests from veterans and other stakeholders.

Conclusion

NARA is eager to work with the Subcommittee and other stakeholders to explore opportunities to better serve our nation's veterans. We invite the Subcommittee members to visit NPRC. We welcome suggestions to improve service and efficiency and we again extend our sincere thanks to the Subcommittee for expressing such great interest in the services NPRC provides. I am happy to answer any questions you may have.

Prepared Statement of Alan Bozeman

Good afternoon, Chairman Runyan, Ranking Member McNerney, and Members of the Subcommittee. My testimony will focus on the importance of safeguarding the records of Servicemembers and Veterans, particularly as the Veterans Benefits Administration (VBA) transitions to a paperless claims process. Secure electronic records are vital to our transformation and providing more timely and accurate decisions to Veterans, their families, and survivors.

Transition to Paperless Claims Processing

VBA is aggressively executing its transformation, a series of tightly integrated people, process, and technology initiatives designed to eliminate the claims backlog and achieve our goal of processing all claims within 125 days with 98 percent quality in 2015. Key to VBA's transformation is ending the reliance on the outmoded paper-intensive processes that currently thwart timely and accurate claims processing.

Currently, VA's Records Management Center (RMC) in St. Louis serves as a centralized storage facility for inactive claims files and Service Treatment Records (STRs). The RMC responds to inquiries from stakeholders and provides information from Official Military Personnel Files (OMPFs) to Department of Veterans Affairs (VA) regional offices (ROs). To effectively manage this nationwide workload, the RMC employs 414 fulltime federal workers and operates twenty-four hours per day, five days per week.

The RMC is responsible for the receipt, storage, maintenance, and distribution of approximately 7.5 million inactive claims files and STRs. To facilitate these objectives, the RMC utilizes a moveable file storage system, which provides approximately 107 miles of linear shelving space. The RMC estimates that it houses approximately 7.6 million records and has capacity to hold approximately 8.7 million records.

The RMC has a comprehensive strategy to ensure the safety of its personnel and records holdings. The main file storage facility is located on a secured campus administered by the General Services Administration. The Federal Protective Service ensures the overall security of the facility, and all entrances into VA-occupied spaces are controlled by either electronic or cipher locks. The electronic locks are operated by specifically coded access badges uniquely assigned to each employee. The Records Management Officer (RMO) can review historical entry logs for the facility, and highly sensitive locations as well as the facility perimeter are monitored with security cameras. The RMO conducts regular inspections of all occupied spaces and works with the Information Security Officer to ensure safety and security standards are strictly enforced.

Depending on the nature of the duties to be performed, each newly-hired employee at both the RMC and VA ROs completes Standard Form 85: Questionnaire for Non-Sensitive Positions via the Electronic Questionnaire for Investigation Processing (eQUIP) system. The questionnaire and supporting information are forwarded to the Detroit Human Resources Center, which works with the Office of Personnel Management to conduct National Agency Checks. These checks ultimately determine suitability for employment.

The RMC also ensures security of records during shipping and utilizes United Parcel Service (UPS) standard and express options for its shipping needs. In fiscal year 2012, the monthly average of associated shipping costs was approximately $28,000. To further ensure the proper shipment and security of records, all shipments to ROs are double-checked with locally established manifests and sealed with tamper-evident tape.

When ROs request either claims files or STRs in support of claims adjudication, the request is printed, a physical search of the file storage area is conducted, and

the record is forwarded, via the mailroom, to the RO of jurisdiction. On average, record requests are fulfilled within three days from receipt.

Both the RMC and the ROs rely heavily on the timely return of records. On average, the RMC receives 300,000 inactive claims files from ROs and 350,000 STRs from the Department of Defense (DoD) each year. Currently, the longest phase in the claims process is gathering and awaiting evidence, which takes an average of 229 days. VBA is working with stakeholders to receive more timely records, which is absolutely critical to our transformation.

As part of our transformation, VBA is deploying technology solutions that improve access, drive automation, reduce variance, and enable faster and more efficient operations. VBA's digital, paperless environment enables greater exchange of information and increased transparency to Veterans, the workforce, and our stakeholders. Seventy-three percent of our Veterans prefer to interact with VA online. We are therefore taking a new approach, which includes online claims and document submission. Our strategy includes participation of stakeholders such as Veterans Service Officers, State Departments of Veterans Affairs, County Veterans Service Officers, and DoD to provide digitally ready electronic files through online claims submission. This is accomplished through electronic data sharing and utilizing a stakeholder portal.

Veterans Benefits Management System (VBMS)

To improve the efficiency of the claims process, VA is executing a new business model that relies less on the acquisition and movement of paper documents. The Veterans Benefits Management System (VBMS) is a business transformation initiative supported by technology to improve service delivery. VA recognizes technology is not the sole solution to improving performance and eliminating the claims backlog; however, it is a critical requirement to our transformation. Without VBMS, we cannot succeed in meeting our goal of processing all claims within 125 days with 98 percent accuracy in 2015.

Through November 2012, VBMS was successfully deployed to 13 ROs. By the end of December 2012, VBMS will be deployed at an additional five ROs, bringing the total to 18. VBA is currently on track with the deployment schedule. Approximately 20,000 users at all 56 ROs will be utilizing VBMS to process claims for compensation benefits by the end of calendar year 2013.

The centerpiece of VBMS is a paperless system, which will be complemented by other people, process, and technology initiatives. VBMS will dramatically reduce the amount of paper in the current disability claims process, and will employ rules-based claims development and decision recommendations utilizing rating calculators where possible. Additionally, by using a service-oriented architecture and commercial off-the-shelf products, VA will be positioned to take advantage of future advances in technology developed in the marketplace to respond to the changing needs of Veterans over time.

The VBMS electronic folder (eFolder) is the electronic equivalent of the VBA paper claims folder. The eFolder serves as a digital repository of all documents related to a claim. Searchable Portable Document Files (PDFs) can be uploaded and viewed by multiple authorized users simultaneously, with the ability to add annotations to help end-users locate documents and facilitate processing. The eFolder eliminates wait times for physical paper folder transport, reduces incidents of lost or misplaced paper folders, and provides on-demand access to key documentation.

VBMS Document Security

VBMS has been engineered to ensure the security and availability of Veterans records from the time they are produced electronically and throughout their electronic life, fulfilling VA's obligations to protect the personal and health information of our Nation's Veterans. VBMS utilizes the latest technology and processes to ensure the confidentiality of electronic documents throughout the document delivery lifecycle. VBMS has been engineered to meet VA Handbook 6500 and National Institute of Standards and Technology (NIST) Federal Information Security Management Act (FISMA) HIGH system categorization and accreditation, ensuring Veterans information is well protected throughout its electronic lifecycle.

The VBMS architecture and system implementation are based on a common approach of "Defense in Depth," where multiple layers of security controls are in place to provide comprehensive protection. Security controls are employed at the network, storage, system, and user layers. Network layer protections include Virtual Private Network (VPN) technologies, bulk encryption devices, multiple layers of firewalls and encryption, ensuring that electronic transmissions are properly secured against unauthorized access. In storage, documents are encrypted when saved to VBMS and when backed-up, to protect the data from unauthorized physical access. At the sys-

tem level, access controls and auditing of activity are enforced at multiple levels within the application to ensure that only authenticated and authorized users are granted access in compliance with VA policies. At the user-level, Role-Based Access Control (RBAC) governs all access to documents ensuring only authorized users are allowed to view an individual's information.

Protection of electronic documents from loss from any source of disaster or malfunction is just as critical as protection from unauthorized access. VBMS is hosted in the Culpepper, Virginia Terremark facility, with a redundant site in Miami, Florida. VBMS data is replicated every 15 minutes from Culpepper to Miami over a dedicated, encrypted network connection between the two sites. Additionally, a daily snapshot of all system data is generated and stored on warm-servers for one week, while a weekly backup is generated and stored to a tape backup unit and transported to a secure off-site facility. Weekly backups are maintained for two months, and end-of-month backups are retained for 100 years. All backups remain encrypted and protected throughout the storage and relocation processes.

VBMS is a modern system, engineered to the latest standards in information protection technologies. RBAC allows the system to control individual access to individual records, ensuring the privacy of sensitive Veteran records even as access to the system is provided to thousands of VBA, Veterans Health Administration, and Veterans Service Organizations authorized users.

Veterans Claims Intake Program (VCIP)

Transitioning the intake of Veterans' paper claims and supporting claims-related source material to digital images and data is a critical success factor to feeding VBMS. The Veterans Claims Intake Program (VCIP) enables proactive delivery of Veterans benefits by optimizing the intake of relevant claims data to be utilized within a digital operating environment.

In support of the continued development and deployment of VBMS, VA executed contracts on July 24, 2012, with two contractors to provide document conversion services, which will account for 98 percent of VA's current document conversion requirements. The contracts focus on populating the electronic claims folder (eFolder) in VBMS with images and data extracted from paper and other source materials.

While much focus is placed on scanning, a scanned document is not necessarily optimal for claims processing. VA is leveraging technology to ensure that the specific information needed to process claims can be identified, extracted, and quickly utilized by claims processors. The document-conversion contractors are converting both printed and handwritten content from source materials (including paper, photographs, and medical images) to standardized, indexed, image-only PDF and searchable PDF (PDF image plus text) electronic documents. Additionally, Optical Character Recognition (OCR) and Intelligent Character Recognition (ICR) technologies are leveraged for data extraction. These technologies recognize characters, form numbers, and patterns in the image and automate the assignment of the correct indexing values. In addition, they allow the extraction of data from the paper image and its use in automated processing.

Safeguarding Veterans' records is a priority and is addressed not only as a contractual requirement, but also through continuous communication and training. Document-conversion security requirements for contractors apply to, but are not limited to, personnel security, cyber security, as well as physical facility security. Contractors, contractor personnel, subcontractors, and subcontractor personnel are subject to the same Federal laws, regulations, standards, and VA directives and handbooks as VA personnel regarding information and information system security.

The two document conversion services contractors employ strict controls to ensure data security. Their scanning and document conversion sites are secured in compliance with Federal Information Processing Standards Publication 140–2, "Security Requirements For Cryptographic Modules," and VA Handbook 6500, "Information Security Program." The document conversion services contractors have engineered and employed adequate local area network (LAN)/Internet, data, information, and system security in accordance with VA standard operating procedures, laws, and regulations. The contractors' firewalls and web servers have been engineered to meet or exceed VA requirements for security. All VA data is protected behind this approved firewall. Additionally, the contractors employ strict controls for the physical access to the paper records, images, and data from those images, storing them on encrypted drives in hardened facilities specifically engineered for this purpose.

In addition to the security of Veterans' records, VA also manages the quality of the images and the accuracy of the indexing values assigned during the document conversion process. Index values are assigned by a combination of the review of the materials and OCR and ICR technologies. Subsequent to the document conversion

process, both image quality and index accuracy are validated by a multi-tiered quality assurance system:

1. The contractors perform 100 percent quality control reviews of the images and index values;
2. The contractors perform industry-standard statistical quality assurance samples and audits;
3. VA quality assurance staff conduct supplemental quality validation sampling;
4. VA is awarding a contract to have an independent contractor perform quality verification and validation; and
5. During disability claims processing, any corrections to indexing values made by RO employees are captured and fed back into the quality assurance process for additional analysis.

The contract personnel performing these tasks also undergo a vetting process. Most contract personnel are performing low risk duties and undergo a National Agency Check with Written Inquiries (NACI), which includes a Federal Bureau of Investigation (FBI) name check, a FBI fingerprint check, a check of any other existing government background investigation, criminal history records, and written inquiries to previous employers and references listed on the application for employment. Some contract personnel are required to complete public trust tasks that warrant a moderate background investigation (MBI). An MBI is also conducted by OPM and covers the elements of the NACI and also includes a credit report, an interview with the subject, and a verification of the educational degree.

Conclusion

VA understands the importance of securing records. Paperless claims processing through VBMS while maintaining the confidentiality, integrity, and availability of the data, is critical to our transformation goal of eliminating the claims backlog in 2015 and ensuring timely and quality delivery of benefits and services to our Veterans, their families, and survivors.

This concludes my testimony. I would be happy to address any questions from Members of the Subcommittee.

Attachemnt A - Answers to questions within the hearing

SCANNING CONTRACTS

HVAC Deliverable: Can you provide additional details about the new scanning contracts, such as the amount of inventory being processed, the duration of the contracts, and their monetary value?

Response: In support of the continued development and deployment of the VBMS, VA executed contracts on July 24, 2012 with two vendors, System Made Simple (SMS) and CACI International, to provide document conversion services. The contracts focus on populating an electronic folder (eFolder) in VBMS with images and data extracted from paper and other source materials, which is the first step in the paperless claims processing system.

The vendors are converting various documents (both printed and handwritten content from various source materials) into standardized, indexed, Image-Only Portable Document Format (PDF) and Searchable PDF (PDF Image plus Text) electronic documents. Additionally, Optical Character Recognition and Intelligent Character Recognition (OCR/ICR) technologies will be leveraged for data extraction. VBA will identify certain documents with probative value to claims processing to perform data extraction using OCR/ICR. Extracted data will be used to populate the Corporate Database or VBMS, eliminating the requirement for VSRs to re-key this data.

VA will order a guaranteed minimum volume of 1.2 billion images if all the optional periods are exercised. This includes 342 million images in the based period, 480 million images in the first option period, and 360 million images in the second option period. The maximum volume will be nearly 2.3 billion images consisting of 704 million images in the base period, 837 million images in the first option period, and 743 million images in the second option period.

System Made Simple (SMS)

VA has obligated $22,651,200 to fully fund the minimum guaranteed amount of services in the base period, which began July 25, 2012. The maximum potential costs include:

- Task Order: $143,384,669
- 15-Month Base Period: $56,542,588
- 12-Month Option Period 1: $44,970,176

- 12-Month Option Period 2: $41,871,905

CACI, International

VA has obligated $22,583,743 to fully fund the minimum guaranteed amount of services in the base period, which began July 25, 2012. The maximum potential costs include:

- Task Order: $180,813,186
- 15-Month Base Period: $71,038,083
- 12-Month Option Period 1: $57,824,453
- 12-Month Option Period 2: $51,950,650

Materials Submitted For The Record

LETTER FROM: HON. MICHAEL H. MICHAUD, SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS, COMMITTEE ON VETERANS' AFFAIRS - TO: THE HON. LEON E. PANETTA, SECRETARY OF DEFENSE, AND THE HON. ERIC SHINSEKI, SECRETARY OF VETERANS AFFAIRS

Dear Secretary Panetta and Secretary Shinseki,

I am writing to express my concern with recent reports that the military has been destroying or failing to keep records from the field in Iraq and Afghanistan. I am very worried that the lack of records will have serious consequences for corrent and future veterans of these wars.

According to investigative reporting done by Pro Publica, the Pentagon was aware of this serious crisis in unit level recordkeeping as eary as 2005, but multiple units are unable to produce any records through 2008. These records include after-action write-ups, intelligence reports and on-the-ground accounts, including information on fighting, casualties, prisoners, battle damage, pictures and maps. The lack of these records for the conflicts in Iraq and Afghanistan will have far reaching implications for both our understanding of these wars and the ability of veterans to get the care and benefits they have earned through their service.

Since October 1, 2001, 1,515,707 veterans of the Iraq and Afghanistan Wars have become eligible for VA health care, and that number will grow as the remaining Afghanistan force is drawn down. It is critical that Congress, the Department of Defense and the Department of Veterans Affairs work together to improve the record keeping process and protect the rights of our veterans going forward. In order to ensure that all necessary remedies are put in place, I request information on the Department of Defense and the Department of Veterans Affairs' joint efforts to address the impact the loss of these records will have on individual veterans filing benefit claims and the impact on the efforts of researchers examining war time health risks and patterns.

In addition, I request that the Department of Defense provide information on the steps taken to ensure that military units are submitting field reports and any evidence that demonstrates improvement in the collection of these records. I request that the Department of Veterans Affairs provide information on how often these types of records are used by veterans to establish a disability claim, including claims where a witness affidavit is submitted in place of an official military record.

Our service members and veterans depend on your agencies and Congress to protect them in battle and to care for them at home. We cannot allow these lost records to lead to the same gaps in knowledge and care that our Vietnam veterans face with Agent Orange and our First Gulf War veterans face with medically unexplained illnesses. I appreciate your attention to this important matter and look forward to working with you both as we continue to care for those who have served our country.

Sincerely,

Michael H. Michaud
Member of Congress

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