

**STATEMENT OF
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OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
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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 integrity 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):

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 VBMS will 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.