

FIELD HEARING ON ADDRESSING
THE DISABILITY CLAIMS BACKLOG

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MONDAY, DECEMBER 12, 2011

United States Senate,
Committee on Veterans Affairs,
Washington, D.C.

The committee met, pursuant to notice, at 9:15 a.m., in the City Council Chamber, Quincy City Hall, 1305 Hancock Street, Quincy, Massachusetts, Hon. Scott Brown of Massachusetts, presiding.

Present: Senator Brown of Massachusetts.

OPENING STATEMENT OF SENATOR BROWN OF MASSACHUSETTS

Senator Brown of Massachusetts. Thank you very much. This hearing of the United States Senate Committee on Veterans Affairs will come to order.

Before we start, I just want to make some quick notes about the process today. First of all, thank you very much for every one of you coming out. This is something that we have been working on since I can remember. It is something that we deal with on a very regular basis in Washington, trying to find out what the issues are and how we can actually resolve them moving forward.

As I said, this is an official Congressional hearing, so we will only be hearing from two panels of witnesses who

are invited here to testify. However, after it ends, though, I, unfortunately, have to head back. We have some votes coming up. After the hearing ends, we are going to have an informal opportunity to meet with members of my staff and other agencies that are here. If you want to meet with representatives from the Department of Veterans Affairs, they are here. We have forms that anyone can fill out if you want to request assistance from my office or something of a personal nature you do not want to speak publicly.

But I would like to just take a minute to introduce my staff. Why do you not come on up, Jack. Why do you not come up real quick so people can see you. If you could just stand up, introduce yourselves, tell them what you do. These are the folks that you may have been dealing with already, but these are also the folks that are going to be sticking around after the fact--and we will stay all day if we have to--to answer any specific questions. So, Bo, why do you not start.

Mr. Prosch. Bo Prosch. I work in the Senator's Washington, D.C. office. I handle all his Veterans Affairs issues there. I have an Army background. I separated in 2008, but I handle all the veterans issues for the Senator.

Mr. Lord. My name is Austin Lord. I work in the Boston office and I take care of all the constituent service

issues that arise with the VA.

Mr. Jonsson. Sam Jonsson. I am a Veterans Service Officer, a Master Sergeant in the Army Reserve, and I am the Senator's representative for Southeastern Massachusetts.

Mr. Richard. I am Jack Richard. I am the counsel for Senator Brown.

Senator Brown of Massachusetts. Great. So these folks will be sticking around as well as representatives from the VA and other offices of obviously some volunteer groups here, as well, to help you with specific issues. Thank you very much. I appreciate it.

So turning to the hearing, I want to thank all of our witnesses for being here to discuss this very important topic and what can be done to address the backlog of disability cases that are at the VA right now.

And always keep in mind that while today is about backlog, we cannot gloss over the impact this has actually on jobs and unemployment among veterans, as well. As you know, Guard and Reservists in particular, in our State, the unemployment rate is much higher. That is why I was thankful that we were able to sign into law a bill that I have been working on, the Hire A Hero Veterans Act that the President signed into law a couple of weeks ago, which I think will help chip away at the problem.

By now, we all understand the economic situation we are

in, and let us face it. Every minute that we spend on the phone with the VA haggling over a rating is an opportunity basically lost to move forward and do something else, whether it is fine-tuning a resume, attending a jobs seminar, or broadening a network. Every little bit of time helps, obviously. A wounded warrior is a transitioning veteran, somebody who has done their service to our country. They are heroes, not only them, but their families, and it comes down to whether--it should never be a question of whether we choose between spending time on the phone with a claims representative over spending time to prepare for an interview or a job or spending time with the family. We also need to make sure that we can use that time effectively to secure VA home loan opportunities or educational opportunities or even start a small business.

So waiting for a claim to get resolved can produce unintended consequences, especially when a veteran is unable to work. It produces not only financial hardship for that individual, but for their family, which is another unnecessary stressor in an attempt to transition back to civilian life. And veterans and their families should never be forced to wait on their well-deserved benefits, or in some instances live in poverty, simply because of the bureaucratic red tape.

On this committee, we have an obligation to every

veteran to make sure that he or she has the tools and resources necessary to make a seamless transition after their service comes to an end. As part of making sure our veterans are prepared for the civilian workforce, we obviously need to make sure that we can do it better and get some of these disability claims resolved.

So having said that, I want to begin by thanking everyone who has joined us here today to watch the hearing, and in particular all of the veterans in the room, and I see quite a few of them, the Massachusetts-based Veterans Service Organizations, the VSOs, the Quincy City leadership. I want to thank the Mayor and the Council for allowing us to have our hearing here. The veterans, the veterans agency advocacy groups, you all play a part in trying to get a handle on this growing problem and we are very grateful on behalf of our nation for that sacrifice and service.

I want to thank Ms. Margaret Ann "Peggy" Matthews, President of the Veterans Advocacy Services, and Mr. Tom Kelley, former Secretary of the Massachusetts Department of Veterans Services and also a Medal of Honor recipient. Thank you for both of your service to our State and our country. Both of them are great Americans and our office relies on them greatly when trying to resolve a lot of the very complicated cases that come before us.

While neither of them will testify at today's hearing,

they were both kind enough to provide us with written testimony to give us some insight as to what their problems have been with actually resolving the services and problems that come into their office.

I believe that everyone here agrees that for a veteran who was injured or became ill as a result of his or her military service to our country, there should be a quick and easy process to get benefits. But despite the dedication and hard work of so many of the VA employees, some of them which are in this room, some older, some new, despite that dedication, I have heard in so many other Veterans Committee hearings back in Washington that they have been struggling to provide timely, accurate decisions, and the decision, unfortunately, has only gotten worse in recent years.

I applaud Secretary Shinseki's commitment to improving the claims backlog, to include his goal to complete all rating-related compensation and pension claims within 125 days at a 98 percent accuracy level by 2015. Unfortunately, the actual data that we are seeing is not promising. In fact, nationwide, it took, on the average, more than six months in fiscal year 2011 for the VA to make a decision on a claim, and VA made errors in more than 15 percent of the time. So now VA-wide, there were actually 800,000 claims waiting for a decision compared to less than 500,000 pending claims just two years ago. So you can see the growing

number of claims, which obviously is leading to one of the problems.

And I often ask, what is it that you need? Do you need more people to help? Is it streamlining? Is it computers? Is it technology? What is it to actually get those case numbers more under control?

And here in Massachusetts, the picture is no better. In fiscal year 2011, it took an average of 231 days for a veteran to get a decision, and VA made errors in nearly 20 percent of the cases. Also, earlier this year, the VA Inspector General found that the Boston Regional Office did not correctly handle a number of claims for traumatic brain injury and conditions related to Agent Orange. As the Inspector General pointed out, some of the VA errors resulted in veterans receiving thousands of dollars less than they should have and others had their claims actually improperly denied.

For some veterans, the delayed decision from VA can mean not having the highest veteran preference when applying for a Federal job or benefitting from priorities given to service disabled veteran-owned businesses. Other veterans may be forced to wait or start a vocational rehabilitation program. And they need to overcome their disabilities and try to succeed in the civilian job market. Given all of this, folks, it is obvious that more needs to be done to

make veterans not face delays and errors in seeking their benefits from the VA.

The question is what Congress can do, what can we do, what can we do to provide to the VA and the ancillary agencies to handle the claims that have doubled since 2001. We are not throwing rocks today. We are trying to find out- -you will hear us actually commend the new folks that are coming in that we have been working with on a daily basis to try to streamline and consolidate the process locally. But you will also hear from some of our witnesses that we are not quite there yet.

So we will hear from the concerns that the veterans and those who helped them with their claims have about the VA claims process and their suggestions for improving it. We will also get an update from the VA about ongoing efforts to help the backlog and get it under control, such as moving to a paperless processing system, focusing on training, using the eBenefits process to give veterans electronic access to the information about their benefits.

So I am hopeful that these changes will help improve the quality of benefits, to speed up the process, give the soldiers and heroes that have done their jobs a better opportunity to become whole and become important parts of our society and back in the working force.

We are fortunate today to be joined by individuals who

have firsthand experience with the VA claims process. In our first panel, we will hear from Massachusetts veterans, two of whom have experienced considerable delays in processing their disability claims.

Tom Conigliaro is an Army veteran who served in the First Army Division as a combat infantry medical corpsman on the front lines of Vietnam. He performed miracles on the battlefield and saved several lives in ways not dissimilar to the fight taking place today in Iraq and Afghanistan. After leaving the Army, he transitioned to the private sector, working for over 25 years in the quality improvement industry related jobs. His story, like many others, demonstrates the challenges facing many of our returning veterans and the challenges facing the VA to improve its disability claims process.

My staff has been working with Mr. Conigliaro's claim since June of 2010, and he experienced a myriad of issues. For example, we were informed by the VA on multiple occasions that they had sent Mr. Conigliaro the necessary paperwork to proceed with his claim and are actively working on his issue. Each time, we followed up with him. However, he indicated he did not actually get any of that material from the VA. His case reflects VA's struggle to communicate multiple issues being handled through the different regional offices.

Paul DeMaio is a veteran who was injured while serving in Iraq and also a retired police officer of 23 years. After he retired from the force, he volunteered to serve in the wake of September 11. Thank you for that, Mr. DeMaio. I understand you have two kids at home, and you must be incredibly proud of them, as well.

Mr. DeMaio. I am.

Senator Brown of Massachusetts. He also will share his story regarding his claim, which we have been working on since May of 2010. The VA actually informed my staff in May of 2010 that his case had all of the required evidence and, in fact, was ready to make a decision. In July, they determined that more forms and exams were needed. The process of gathering the evidence dragged on for 16 months after that date, when a decision was finally reached. I hope that Mr. DeMaio's experiences with the VA will help the committee and VA chart a better path towards reducing that backlog.

Francisco Urena, Commissioner of Veterans Services for the City of Boston, is a Marine Corps veteran. He performed diplomatic security with the Department of State in the Marine Corps and served at the American embassies in Damascus, Syria, Bishkek in Kyrgyzstan. He is a combat veteran from Operation Iraqi Freedom, a recipient of the Purple Heart from injuries sustained during combat. He

received the Secretary's Award, Veterans Services Officer of the Year for 2008 and 2009 by then-Secretary Kelley of the Department of Veterans Affairs. Thank you, Francisco, for coming.

And Mike Sweeney--thank you, Mike, for coming, as well--is the Director of Veterans Services for the City of Lynn, President of the Massachusetts Veterans Service Officers Association, and the Association proudly represents local Veterans Service Officers and Agents in Massachusetts and ensures that veterans and their families have access to critical benefits and services at the local level earned through their service. He served in the Army from 1989 to 1993 as a Gulf War era veteran.

In our second panel, we will hear from the Director of the VA's Boston Regional Office, Dr. Brad Mayes, who I have had the pleasure of meeting in my Boston office several weeks ago.

So I want to, first of all, thank everybody for coming once again. Just to let you know the time frame, we will be, as I said, getting testimony. I will be inquiring with the panels. And then we will be probably ending at 11:20 or 11:30 so I can get back into Boston to get a quick meeting and then head back for votes. But once again, my staff will be here as long as it takes to answer any and all questions that you have.

So we will start right now, if we could, with you, Tom, if you do not mind, so fire away. You can certainly move the microphone however it is appropriate, so fire away.

DRAFT

STATEMENT OF TOM CONIGLIARO, A VETERAN FROM
WOBURN, MASSACHUSETTS

Mr. Conigliaro. Thank you very much, Senator Brown. I did not think I would be nervous, but I have been nervous for the last couple of days, knowing that I was going to be here and--

Senator Brown of Massachusetts. You know your stuff.

Mr. Conigliaro. Well, anyway, good morning, everyone. My name is Tom Conigliaro. I am a Vietnam veteran, as you have heard. I wanted to thank Senator Scott Brown this morning and his staff not only for inviting me here today, but also for Senator Brown's uncompromising commitment to help our veterans. I really thank you very much for that, Senator Brown.

I served in Vietnam as a front-line combat infantry medic with the First Infantry Division in 1967 to 1968. I was in Phouc Vinh, the site of the highest concentration dump of Agent Orange, one-half million gallons, during the war. I am a lifelong non-smoker, non-drinker, non-drug user. I am also the only person in my family or my relatives to ever have had cancer, twice.

A few years after my service, I had my first major surgery for a large mass removal of a lymphoma just below my lungs. That experience nearly ended my life.

Fast forward to January 2005. I went to the VA

hospital in Bedford, Massachusetts, where I was sent for a routine chest X-ray. The radiologist told my primary care doctor of a tumor in my lung. Somehow, I fell through the cracks and no one, including the primary care doctor, ever mentioned it to me.

Fast forward to April 2008. The tumor took over so much of my lung that it created painful respiratory problems for me. I also lost my voice. And to keep the tumor from spreading, I ended up losing most of my right lung. After recovery, I then filed a Form 1151 through the Vietnam Veterans of America informing the VA of what happened.

When I was unable to, on my own, to reach a resolution with the VA, I asked Senator Brown's office for help. After a long year, or it seems like it was much longer than that, e-mailing and phone campaign from his office, and we were still no further along. Finally, Senator Brown's assistant, Austin Lord, went to the VA in person on my behalf.

Please understand, none of this is said with any kind of malice. I am just telling a story of what happened. The VA handles hundreds of thousands of cases for veterans and I think they should be applauded for what they accomplish with the resources they are forced to work with.

With the help of Senator Brown's office, we were finally able to achieve a major breakthrough with my case. However, I am still waiting for the VA to address the Form

1151 that we filed a few years ago as well as meet with me in a face-to-face hearing.

Let me close by saying this. There needs to be a rational process to facilitate the flow of information between the veteran and the Veterans Administration, and I can clearly see that that rational flow of information in an expeditious fashion needs to take place between the Senator's office and the veterans that he is trying to help. Fortunately, having worked in my private life in the private sector in the quality industry, I know of a procedure that I would like to share today after this hearing with the VA and with the Senator's staff.

There is a procedure from the quality industry that we applied to the Fortune 500 corporations and every one of them embraces this quality management system, which I think is really lacking in the VA and also in the VA hospitals. Through this, the Fortune 500 companies in literally all of manufacturing and a number of other service sector industry corporations have been able to embrace this quality management system as a vehicle not only for continuous quality improvement, but also they have been able to raise the bar in quality for their industry and ended up winning the highest award in this nation, the Malcolm Baldrige Award for Quality Excellence. The first hospital in the nation to win that award was one in St. Louis that was

nonprofitable.

What I am suggesting to you is this, is that the hospital I am familiar with in St. Louis that had won the Award for Quality Excellence also then became profitable. Inasmuch as VA hospitals are subsidized by the government, I would strongly encourage the VA to talk with me later so I might show you what this quality system is.

In any case, the savings across 153 VA hospitals in this country could be very significant and save the government millions of dollars every year and the owners of this country, the taxpayers, a great deal of money.

I would like to thank Senator Brown again for all he does every day for veterans and I want to wish everybody a very blessed Christmas, a blessed new year, and God bless the United States of America.

[The prepared statement of Mr. Conigliaro follows:]

DRAFT

Senator Brown of Massachusetts. Tom, thank you very much. Obviously, your voice is back and well heard.

Just for the witnesses, we will obviously accept, if you would like, your testimony for the record. Also, I will hold it open for 15 additional days for any questions from me to you, and we can communicate and submit information, and also for the second panel there may be additional questions. We will keep that process open for 15 days so we can continue on with the conversation.

So thank you very much, and once again, you can give a statement or you can just submit it for the record, either way, whatever you want. Paul, why do you not go next. You do not need to hold that microphone in front of you. Tom, if you could move that one over, that would be great. Thank you.

DRAFT

STATEMENT OF PAUL DeMAIO, A VETERAN FROM PLYMOUTH,
MASSACHUSETTS

Mr. DeMaio. Good morning, Senator Brown. My name is Paul DeMaio. I am a veteran of Operation Enduring Freedom and also Operation Iraqi Freedom. I served in 2003 to 2004. I am here today to speak not only for myself, but on behalf of all other veterans in this nation.

I served in 2003. When I came home, I was diagnosed with PTSD and hearing loss as well as tinnitus. My life had changed at that point. When I came home, I withdrew from my family. I would stay in my basement. I was drinking heavily and wishing and thinking of ways to deploy back overseas. I actively pursued new units getting ready to deploy. At that time, I was working for the Veterans Administration at the VA hospital in Jamaica Plain.

My life changed in March of 2005--excuse me, February of 2005, when I suffered a massive brain hemorrhage which left me with short- and long-term memory loss, problems with cognitive and executive functioning, and several deficiencies. I should have been medically retired from the Army National Guard at that time, but at that time, my superiors felt they should keep me on the rolls, knowing that I could never deploy again.

I filed claims for PTSD, hearing loss, and tinnitus, and they were denied continually for a period of almost

eight years. I am still in the appeals process on some of these items.

I will live with this brain injury for the rest of my life. It is difficult for me to hold jobs. I have a hard time remembering anything. I do not remember how I met my wife, which I remember now. My wife and kids have been through a lot and stuck by me through thick and thin. They all mean the most to me because they are the ones that have held me together. I often become nervous and afraid with large crowds around me, but I am trying to open myself out. Because of my brain injury, I cannot wear my hearing aids because it causes me to have equilibrium issues. I am hoping to have that change with some of the new hearing aid devices that are out.

I am still in appeals on some claims. I am asking this current administration to help and change some of the policies and procedures so no one has to go through what I have been through for eight years.

Thank you very much.

[The prepared statement of Mr. DeMaio follows:]

Senator Brown of Massachusetts. Paul, thank you very much, also, for your testimony. I appreciate it, and we will get to questions in a minute.

Francisco, if we could have you next, if you could move the microphone down. Put it right in front of you.

DRAFT

STATEMENT OF FRANCISCO URENA, COMMISSIONER,
VETERANS SERVICES, CITY OF BOSTON

Mr. Urena. Good morning, Senator Brown. Thank you for hosting this hearing. For the record, my name is Francisco Urena. I am the Commissioner of Veterans Services for the City of Boston. I would first like to thank you for allowing me the opportunity to participate in this hearing.

In my capacity as veterans' agent over the past five years, I often deal with assisting veterans in filing compensation for service-connected disabilities and pensions. In a time when we are experiencing so many recently deployed veterans returning home, we as veterans' agents are seeing a high number of claims being sought, not only from veterans who have been discharged post-9/11, but also from many World War II, Korean, Vietnam, Gulf War, and peacetime veterans who through outreach have become aware of their benefits and are now engaging in conversations for the process of compensation.

It has been my experience that the Department of Veterans Affairs has been proactive in solving veterans' claims for compensation under the leadership of Secretary Shinseki. One example in the changes made to the previous compensation is the newly adopted form from the lengthy 26-page document. The new form adopted by the Department of Veterans Affairs over the last year is now a six-page user

friendly form. This has allowed more veterans to begin and complete the easier process, often on their own, to file for compensation.

In my capacity as Veterans' Agent, I have always recommended veterans with interest of filing a claim to seek help from an experienced advocate. Many first-time veterans seeking compensation who are denied often give up on the process after such a denial. As opposed to the rest of the country, here in Massachusetts, veterans have an advantage when it comes to filing compensation as well as seeking information and services. As well as leading the nation in the most generous veterans' assistance program, State law requires that every city and town with a population of over 12,000 have a full-time agent within that city or town. Aside from advocates of nonprofit veterans' organizations, to include but not limit the DAV, American Vets, VFW, American Legion, and Order of the Purple Heart, just to name a few, veterans seeking compensation have many options of agents willing and able to help them file a claim on their behalf.

In the City of Boston, we are very fortunate to have the VA Regional Office located adjacent to City Hall Plaza, where veterans and claimants can seek first class assistance in filing claims.

From my experience, I have always had a good turnaround

with the compensation claims for many of the dozens of claims that I have filed on behalf of veterans and widows of veterans throughout the years. I have often advised veterans that filing a claim is much like taking a case to court. Not only do you have to have an issue, but have evidence of proof of such issue. The proof in the case of compensation claims comes in the form of documented medical records or witness statements, depending on the nature of the claim. Whether it is a current medical problem, ongoing, or something that occurred years past, the lack of medical evidence or partial filed forms is what delays the claims from being processed in a timely fashion.

While I have had such success in assisting claimants in the process of obtaining compensation, there is room for improvement. One immediate area that I recommend intervention is the process of the appeals--in the appeals process. During the stage after the initial denial, veterans often file documentation on their own, lack the complete forms or supporting medical evidence of their claims, often find themselves waiting several months or several years waiting on the overwhelmed Board of Appeals to see their claim through.

In closing, I would like to note other changes which I have found helpful to us Veterans' Agents in the process of claims and compensation. Such positive changes to the VA

include frequent written communication from the VA to claimants after filing claims informing them of their status over the last several years; an improved website with useful and easy-to-navigate information; extended hours on their toll-free service numbers and their service line; an improved customer service experience over the phone, as well as an accurate waiting time and call-back feature where now one does not have to be tied to a phone for an extended period of time waiting for the VA representative. They now return your call.

We must do more to continue to assist veterans, these men and women who are returning home or have been home and are now part of our communities, to get them the benefits they deserve.

Once again, I would like to thank you all for the opportunity to participate in this forum, and thank you, Senator Brown, for your continued support to veterans.

[The prepared statement of Mr. Urena follows:]

DRAFT

Senator Brown of Massachusetts. Thank you, Francisco. I appreciate it, and thank you for your service, as well.

Mike, we will wrap up with you and then we will go into a round of questions. And once again, we will take your testimony for the record and make it part of the hearing. So, Mike, go ahead.

DRAFT

STATEMENT OF MICHAEL F. SWEENEY, PRESIDENT,
MASSACHUSETTS VETERANS SERVICE OFFICERS
ASSOCIATION

Mr. Sweeney. For the record, my name is Mike Sweeney and I am the Director of Veterans Services for the City of Lynn and President of the Massachusetts Veterans Service Officers Association. The MVSOA proudly represents local Veterans Service Officers and Agents in Massachusetts and we are tasked under Massachusetts State law, as Francisco just mentioned, with providing critical services to those who have worn the uniform and their families. So on behalf of the MVSOA, I want to thank you, Senator, for having us here today, for holding this hearing, and I want to thank the City of Quincy and their Veterans Service Officer, Tom Stanbury [phonetic], for doing such good work on behalf of veterans.

I am happy to be here to have the opportunity to explain briefly what we do here locally and what we have seen. Francisco has done a very good job of explaining the role of the Veterans Service Officer in Massachusetts, and for those who do not know--I know, Senator Brown, I know you know from your time serving on the Massachusetts Veterans Committee here at the State House that Massachusetts does stand alone, and I want to point that out again. We have the most comprehensive program of veterans' services in the

entire country and Veterans Service Officers are at the heart of that and we are proud of that.

As Francisco mentioned, every veteran in the Commonwealth has a VSO representing them at the local level and we find that that is very helpful. But with so many veterans facing profound challenges, so many profound challenges, as you have heard today, whether it be Vietnam veterans, returning veterans, Korean War, World War II veterans, or even Persian Gulf veterans like myself, the challenges are daunting. So we do not take any criticisms lightly when we talk about what the VA is or is not doing, but there are, as Francisco mentioned and as I think we have heard from the powerful testimony previously, there is clearly room for improvement.

As VSOs, we have found in our experience many different ways to find--to best deliver these important services to veterans and their families. One simple yet important lesson we have learned is that for VSOs to do their job, adequate staffing is the key. There is simply no substitute for it, and we believe this lesson can be applied to the issue of the VA disability claims backlog.

That is why, while the MVSOA generally applauds, as Francisco had mentioned and I know, Senator, you had mentioned earlier about under the leadership of Secretary Shinseki many, many positive changes--many, again, Francisco

outlined--but with a goal of helping the veteran in every case. I have been very impressed--we have with some of the changes that have sought to improve the quality of the services provided. But we would argue that the VA stated time line to eliminate that backlog of 2015 is simply not enough.

It seems clear that an increase in trained staff to process claims is the single best way to bring the backlog down sooner rather than later. In our experience, anecdotally, the people we deal with at the VA, whether it be for the health care system, which is not the focus today but I wanted to mention that, and through the VBA, the services are very good. The people are working very hard. Sometimes they are overmatched. That is what it comes down to.

While any improvements would clearly be welcomed to the men and women we serve, a three-year time line is simply not ambitious enough for America's veterans and their families. The brave men and women and their families who are part of this backlog often do not have the luxury of waiting three years for the VA to fix their problem.

With respect, we say that three years is not good enough for returning veterans who might become discouraged by the bureaucracy and never again try to access VA's critical services, as was the case with far too many Vietnam

veterans. And three years is certainly not good enough for the almost 800 World War II veterans who pass away every day, many while awaiting decisions on their benefits.

It is with this in mind that we respectfully submit that any serious effort to decrease this backlog must be accompanied by an appropriate level of resources to get the job done. Staffing has certainly increased over the last few years. However, it has not met the need.

Please understand that our collective sense of urgency is based on our members' firsthand experience in our experiences from across the Commonwealth. Far too often, we see men and women who find themselves waiting for this backlog to clear in order to access benefits for which they are entitled. These veterans have served in every war in every era and suffer from injuries seen and unseen. All they ask for in return is that their claims be decided in a timely manner, and we believe this is not too much to ask.

We understand this request is not easy, especially considering the reality of our nation's budget crisis. However, after ten years of war, this is the challenge we are presented with and we do not have the ability to wish it away. Every generation has seen our military answer the call and do what is needed, so in closing, let me once again ask the committee to work to meet this urgent need now.

I would like to again thank you, Senator Brown, for

holding this committee hearing here in Quincy and for making it a reality so that we are here so we may provide some insight into what may be done to address this important issue.

This concludes my formal testimony, but I want to, before I close, say I am honored to be on a panel with men who have served and given so much for their country. Thank you.

[The prepared statement of Mr. Sweeney follows:]

DRAFT

Senator Brown of Massachusetts. Great. Thank you, Mike, also, for your testimony and your help with everything that you do.

I do want to thank Senator Murray and Ranking Member Burr for authorizing this hearing. They felt it was an appropriate hearing to try to learn not only what is happening in their districts, but throughout the country.

I note just in some of the pending documentation that we have, in 2010, for example, the Boston area cases pending over 125 days was 46.8 percent. And then you look forward in 2011 and that number is up to 63.8 percent. So you can see that the issue is certainly real. It is something that we are trying to address and get a handle on.

There are a lot of questions. There is plenty of blame to go around. This is not a hearing for that. This is to try to find out where we can do it better, and I would like to start with Mr. Conigliaro, if I could, and then I am going to go to you, Mr. DeMaio, to ask the very same question.

Your experiences with the VA, as you indicated, were--I am paraphrasing, but were frustrating, to say the least. What was the most frustrating aspect of your ordeal, and how do you think the claims could have been handled better?

Mr. Conigliaro. Well, obviously, one of the most frustrating things to me, Senator Brown, is--you know, it is

hard to say this without sounding like you are pointing your finger or throwing rocks, but--

Senator Brown of Massachusetts. Just speak frankly. Speak frankly.

Mr. Conigliaro. You know, just trying to deal with the VA on my own, it was just something I--I did not expect that it would be that difficult when I first started out. I just thought it was something that you did and you are a veteran and there are people there to help you. But I just really-- I guess I did not realize in the beginning when I was dealing with them, and I am kind of getting even a better idea listening to all of this, the huge backlog that they are facing.

I really did not--I did not really want to call you. I mean, I thought it was something I could do on my own, and I thought, surely, when I wrote to them numerous times and told them, you know, you cost me a lung. Can we talk? Is there somebody I can talk to? And they would not ever respond to that. I mean, I never got anything back from anybody. They scheduled me for my own appointments at their own hospital to see their own doctors, you know, to verify that what I am saying happened, but other than that, it just seemed very impersonal and that there was nobody really to go to.

So finally, I contact your office and it was very

frustrating for Austin Lord, who had to help me, continually having to go to the VA, e-mail, phone conversations, and nothing took place, even with his effort, until you allowed him to go to the VA and see them personally on my behalf. And then, only then did we see any kind of movement. And I just do not think that it really should be that way for not just me, but for any other veteran.

And again, I am not trying to say the VA are bad people. I do not even know them. I just think that there needs to be a better process. Having, as I said previously, worked in the quality industry, I see that there is no quality management system with processes in place--

Senator Brown of Massachusetts. Right.

Mr. Conigliaro. --it seems to me. And I think that if we could look at that and see other successful hospitals that have embraced this in other organizations, that it would streamline that flow. I think that your time as a Senator could be better utilized if you are not having to deal with individual little guys like me that cannot get a response from an organization that is there to help them.

Senator Brown of Massachusetts. Sure. Well, let me just say, first of all, it is my honor to work with guys like you, and thank you for reaching out to us, number one. And I agree, you are not the only one. We actually have a couple of walls in our office of thank you letters from

soldiers who we have helped in the short time I have been there.

Mr. Conigliaro. You have helped me, and I thank you for it.

Senator Brown of Massachusetts. You are welcome.

Mr. Conigliaro. And I thank Austin Lord, your assistant. Tremendous job.

Senator Brown of Massachusetts. I am very grateful for those comments, but we have noticed, as well, it is not only here in Massachusetts but it is national, and we have had the hearings very similar to this one as to trying to address why, and I am looking forward to getting your streamlining suggestions as well as yours, Francisco.

So, Paul, if I can ask you, as well--

Mr. Conigliaro. Thank you very much.

Senator Brown of Massachusetts. Thank you.

What are the most frustrating aspects of what you went through?

Mr. DeMaio. Well, I feel Tom echoed a lot of my feelings. I feel that the VA is overwhelmed and backlogged and they are in--it is a system that is broken. These wars have been going on for a long time. When I deployed, my kids were in high school. Now, my son's friends and comrades have deployed. Some of them are two deployments. They come home, they have problems, and they come into a

system that is just overwhelmed.

Senator Brown of Massachusetts. Right.

Mr. DeMaio. I think that they had an expose on "60 Minutes" and they were speaking with, I believe, a Vietnam veteran and one of his statements was the VA's situation was deny until they die. That was the saying back then.

Senator Brown of Massachusetts. Right.

Mr. DeMaio. And I believe it is trying to change, but maybe a little slow. It is a little late now and it is hard to make catch up.

Senator Brown of Massachusetts. Right. Well, thank you.

Mr. Sweeney, if you could pass the microphone down--I am sorry for the limited access we have had. We had to kind of do it the old fashioned way. So, Mike, if you could actually tell us, in your role as a VSO, you have assisted, obviously, countless veterans with their claims. What are the most common complaints that you hear or experiences firsthand about the complaint process? And the reason I ask that is because I also hear, not only from the soldiers but from the VA, in that you will have, as Mr. Conigliaro said, you will have a soldier who will come back from battle or just come back from any tour of duty and they say, okay, I have an issue.

And they go in and they go to the website, the fill out

the form, they provide any information they have, and they could miss a couple of segments, not have a document that is necessary in the VA's eyes, and say, oh, it is okay because it is me. It does not matter. I am good, because everyone knows that it has happened to me because I have lost my leg and people can see it, or I had a lung removed and people see that so I do not really need to provide that. And as a result, the claim is denied or rejected or put on hold or sent back for additional information, and because of the large backlog, they then go to the back of the pile.

What I have also found is that there are some civilian nonprofit organizations that will take those veterans, and we have referred many of them and we will get that information to anyone who needs it, who they will sit down with the veteran. They know the process. They will go through. They will get the form with the packet like this, here it is, and there is a very, very quick turnaround.

So what are your personal experiences?

Mr. Sweeney. I would say, Senator, I think the words you hear from veterans in that situation is, what do you think, I am lying? So as you mentioned, it is very obvious, and sometimes it comes in when--but I think a lot of it is, again, I understand General Shinseki, or Secretary Shinseki is trying to reform the getting the third party records. That might be a good place to start. But I think it really

is that kind of--the feeling is more of a "gotcha" kind of thing. They will say, I already sent that before. What do you mean, I already sent that? We are lucky that we have it here. We will resend it. But the frustration that you just keep continuing to get.

And a lot of it is that they do not--without assistance from a local VSO or a national service officer or some nonprofit, it is hard to understand what the letters mean when they get them. They are not in English, and they are intended, understandably, to cover the VA legally--

Senator Brown of Massachusetts. They are in bureaucratic jargon, legal jargon.

Mr. Sweeney. Yes. One example is they will send you a letter--often, veterans will receive a letter that tells them to make sure they sent in all their records. They already did, but the letter is intended to make sure that the VA made sure to let you know you are supposed to send in your records. I do not know where the answer is there, but that sort of frustration on a regular basis.

But I think the delay is the biggest thing, and I think I have heard that from countless veterans, is, what, are they waiting for me to die? It is hard to--

Senator Brown of Massachusetts. Yes, I have heard that, too. I have heard that, too.

Mr. Sweeney. It is hard not to take that--while you

understand that is not the intent, the emotions are sincere, and the veteran who, again, dealing with someone who was, before Secretary Shinseki changed the standard on post-traumatic stress disorder, having a Vietnam veteran who was discouraged from going into the VA back in the 1970s, trying to figure out the date when it was the second rainy season in Vietnam was quite daunting, and those sort of things come up. That is why I say I do think--you know, coming up with the actual dates, they could go back to the unit records and determine things. I do think there are changes there where they are attempting to fix it. I guess it is hard to play catch-up--

Senator Brown of Massachusetts. Right. Right.

Mr. Sweeney. --with all these issues. It really is the backlog, Senator. I think the frustration that comes with that, the amount of time people wait, it is just they look at it in terms of years and it is--

Senator Brown of Massachusetts. It is frustrating and then they give up.

Mr. Sweeney. Yes.

Senator Brown of Massachusetts. Yes. Francisco, could you follow up? Same question. What are your experiences, and how are you, being the new kid in the block in terms of being in Boston, how are you addressing, as you heard, the very serious backlog and delay?

Mr. Urena. Senator, the number one issue that I do notice, while every case is different, is folks understanding the language--veterans understanding the language on the forms that they are filing and sending--

Senator Brown of Massachusetts. Let me ask you a question. How many people do you actually have working for you in Boston?

Mr. Urena. Currently, in the City of Boston, I have ten employees.

Senator Brown of Massachusetts. How about you, Mike?

Mr. Sweeney. Three VSOs.

Senator Brown of Massachusetts. And is that enough for both of you to do your jobs, because I know one of the things you said, Mike, was that staffing was an issue. Are you guys both satisfied with--

Mr. Sweeney. [Off microphone.] I think we can do the job with three. Obviously, I think we could do the job better--

Senator Brown of Massachusetts. Yes.

Mr. Sweeney. But I think three for us is sort of--

Senator Brown of Massachusetts. Right there on the edge, yes.

Francisco, sorry. Go ahead.

Mr. Urena. In Boston, we are a bit overwhelmed with the amount of cases that we do, not just because we assist

veterans in these kinds of claims, also with the public assistance part and outreach, conducting outreach in the City of Boston. Because of the vast size of the city, it is a challenge conducting outreach and reaching out to some of the folks in the outskirts of the city that often do not know that we are available.

And we are in the process of bringing more folks on board to specifically target outreach because I think that is one of the challenges with veterans filing claims, is they are not aware of who is available to assist them. Going through the paperwork on their own is often the challenge that things get missed out or statements are not mailed into the VA.

Senator Brown of Massachusetts. So how do you reach out to them? What efforts are you making specifically to reach out to that not only older veteran, but the newer folks that are coming home? What are you doing specifically?

Mr. Urena. We are attending more social events in the community, attending the senior centers, the Posts, letting them know that we are there, reminding them that we are there. As far as the new generation, we are doing more social media outreach with our Facebook page and other networks and other websites to inform them that we are there and let them know what benefits we provide and what type of

assistance we are there to provide them with.

Senator Brown of Massachusetts. So what has your experience been, Francisco, with the VA since you have been in your new situation, or your prior situation up in Lawrence?

Mr. Urena. Through Lawrence and Boston, over the last two years, I have definitely noticed big changes, and the biggest one, as I have stated--

Senator Brown of Massachusetts. Good or bad?

Mr. Urena. --is the--it is a positive--

Senator Brown of Massachusetts. Positive changes?

Mr. Urena. --is the change of the form. It has made our job so much easier, and also the job of whoever is filing it so much easier, because that redundancy in information that was sent, that is already being attached to the discharge, which has to go with the application, it is already there. And many veterans often enough were bogged down with so many pages of information that was requiring, or they could not remember the date of a certain event, and often enough, that was the biggest delay, in just completing the form to be able to mail out, not to mention when, at the receiving end, the VA would receive it and would have to process all that information.

Senator Brown of Massachusetts. I want to go back to Paul for a second, and then back to Tom. Paul, what role

did the unit play in all of your--and if you could pull that microphone right up to you--what role did the unit play once you got back in terms of helping you get the resources that you needed to move forward? Was there any interaction, or did they just say, hey, listen, you are discharged. See you later. What was the relationship?

Mr. DeMaio. Well, I cannot really say that the unit played really much of any role because it was--we would carry on. A lot of us were proud of our service and to this day a lot of us thought we would be going back on a second deployment.

Senator Brown of Massachusetts. What unit were you with?

Mr. DeMaio. I was with the 220th Quartermasters group out of--well, it was located in Plymouth.

Senator Brown of Massachusetts. So when you--

Mr. DeMaio. It has since--

Senator Brown of Massachusetts. You have been reconfigured, right. So when you got back, for example, you obviously were injured. They knew of your injury.

Mr. DeMaio. Well--

Senator Brown of Massachusetts. How did they take you from point A to point B? Was there any, like, here, Paul, we are going to help you. We are going to take you to get evaluated, the Medical Review Board, fill out the forms.

Was there anything like that?

Mr. DeMaio. No, sir.

Senator Brown of Massachusetts. All right. So how did you actually take the step to go and actually get your care and coverage? Did you and your family kind of wallow through it yourselves?

Mr. DeMaio. Through my family, myself. I have a lot of memory issues to this day, so--I am sorry. I should say that the Veterans Agent did help.

Senator Brown of Massachusetts. That was actually my next question. I wanted to see what your personal, and then I am presuming you--my next question was, did you go to the Veterans Agent?

Mr. DeMaio. Yes, we did, and the Veterans Agent was very helpful.

Senator Brown of Massachusetts. Very helpful. And Tom--thank you, Paul, and I know you have those issues, so if there is a question you cannot answer, get your able-bodied assistant. She is welcome to come up. Tom, pull that microphone right up to you, because it is--yes, right up to you like you are singing a song there.

Mr. Conigliaro. I certainly do not do that.

Senator Brown of Massachusetts. There you go. Much better.

[Laughter.]

Senator Brown of Massachusetts. When you got back, my understanding is the way--let me just say what we found. We found that when somebody performs this service, that there has been a breakdown of the out-processing of that soldier. Soldier A goes and does a tour of active duty and is deployed. Soldier B is still on active duty, is not deployed. We have found in a lot of the hearings that we have had so far is that there is a breakdown where the soldiers are not out-processed properly. There is not a top-to-bottom review of them from their finances down to their mental state, their physical state, everything, to determine, hey, what is the status of the soldiers we are releasing? Should we release him or her, because they seem to be having PTSD or other types of issues. They have internal medical issues, the like.

And I would venture to guess that when you got out, Tom, when you were serving, they did not do that kind of top-to-bottom kind of exit processing out. They just said, hey, thank you very much, salute, and see you later. Is that a fair statement?

Mr. Conigliaro. It sounds like you were there.

[Laughter.]

Mr. Conigliaro. But I know you are not old enough to have been. But, basically, that is correct. There really was not that taking place. And back then, and I think you

will know this, very little was known about--and I do not even remember the acronym PTSD back then because it really did not show up. And I did not realize I suffer from PTSD. I do. As a matter of fact, that is one of the things that they compensate me the most on right now. But what I have found--

Senator Brown of Massachusetts. Now, let me just jump in. How long did it actually take you to get that compensation?

Mr. Conigliaro. Well, again, if it had not been for your office, and now we are talking 40 years or more.

Senator Brown of Massachusetts. That is amazing.

Mr. Conigliaro. You know, I am trying to think when I first filed for it. I mean, it was years ago before I knew all of you. And so there was a stretch in there then. You know, that is one of the hard things to even deal with right now or to try to explain to somebody.

Senator Brown of Massachusetts. No. You are doing a great job. I understand, because you are not--as you said, you are not the only one--

Mr. Conigliaro. No--

Senator Brown of Massachusetts. --which is the sad part of it. And we hear that story over and over and over.

Mr. Conigliaro. Well, it is not only that, Senator, but it is the personal side of PTSD that your family sees,

and even right now to try to say that this is a problem I have. It is a problem I have, and I think that I tried to bury it in my work--

Senator Brown of Massachusetts. Sure.

Mr. Conigliaro. and all that stuff for years, you know, and not talk about it. I mean, for a long time, I did not talk about it and I did not want to even talk about where I had been and what I had seen. Guys who had served in combat, they get the idea. They know what I have seen. I would not wish on anybody the stuff I have been through, including going to a hospital where a doctor forgets to mention that you have got a tumor in your lung. I would not wish that on anybody, and I hope that never happens to anybody in this room. But it adds to the PTSD because it leaves me with the feeling like nobody cares. I am in this all by myself.

Senator Brown of Massachusetts. And did you go to your Veterans Service Officer, as well? And what was the relationship there?

Mr. Conigliaro. Actually, I did not have anybody to go to.

Senator Brown of Massachusetts. So you basically had been doing everything yourself with your family--

Mr. Conigliaro. Trying--

Senator Brown of Massachusetts. --and kind of muddling

through the process.

Mr. Conigliaro. I did go to DAV and those people.

Senator Brown of Massachusetts. Yes.

Mr. Conigliaro. But I have got to tell you, I am just one of thousands and thousands of people that they deal with, so I cannot even imagine what the VA must be going through--

Senator Brown of Massachusetts. Right.

Mr. Conigliaro. --trying to handle guys like me.

Senator Brown of Massachusetts. Well, thank you.

Thank you.

Both to Mike and Francisco, is that a common occurrence, the things that you hear coming in? Have you seen in the paperwork--either one can take a shot--have you seen in the paperwork when they walk in and you say, hey, I need my DD-214, I need--did you get a Medical Review Board, do you have any of that documentation, I can tell you, I mean, I have been in 32 years and I have boxes of it, but I am probably one of the few because as JAG we deal with these things. I say, hey, I need A, B, C, and D. And the unit at St. Louis, that burned down, and a lot of the records were lost there. You have a lot of, I mean, there is a cost. There is a time, especially if you are dealing with short- or long-term memory issues. How do you even remember what you were doing, as Paul was referencing? He said that he

forgot how he met his wife and only recently remembered that.

So are you finding that is a common theme, Francisco, with the soldiers coming in?

Mr. Urena. It is, Senator. Every case varies, Senator, but especially, I think it was a challenge with some of the Vietnam veterans after the fire at St. Louis. That was one of the previous concerns, just starting the process, because the discharge is required. When they attempt to obtain their discharge, often they would receive a reply from National Archives stating that their section of the alphabet was in the fire, which is unfortunate.

Fortunately for many of the veterans while I was in the capacity in the City of Lawrence, we did have backup records of the majority of the discharges, so we were able not only to replace the record at St. Louis, but also provide, more importantly, that record for the veteran for the process of filing or for any other future benefits.

But, nonetheless, yes. It does happen with many veterans seeking information, not being out-processed correctly. But again, it all comes down to the documentation of how we file those forms needed so that the VA knows what to look for and how to read them.

Senator Brown of Massachusetts. So I am presuming your message to soldiers that are going and actually just signing

up is, hey, save everything. Save every piece of paper you have, not only on enlistment, but on discharge.

Mr. Urena. In the Marine Corps, that was the key. Keep documentation and always keep a record of your medical records. I know it is not the right thing to tell veterans now years past, that they should have done that--

Senator Brown of Massachusetts. Right.

Mr. Urena. --but for anybody that is still serving or anybody that is looking for it, no matter what, save your records, especially your medical records, that I do not think you can ever have too many of your medical records, just for any purpose of following up. But nonetheless, we do not want to deter people just because they did not have their records that it is too late. It is never too late, and we are here to help, and I think that is the message that I would like to leave veterans with.

Senator Brown of Massachusetts. Thank you.

Mr. Sweeney. Thank you, Senator. It is a good question, and one of the things I think, as Francisco said, sometimes the veteran will not have it and assume wrongly, well, I do not have any of my records. I should not put in for it.

Senator Brown of Massachusetts. Or I can send it forward without it. It does not matter, because, hey, I am telling the truth. Right.

Mr. Sweeney. And one of the things I think that the VA has done, some by court case, some recently through other decisions of the Secretary, where possible, anywhere they could make claims less--put the burden less on the veteran, for example, they have broadened hearing loss recently where you do not necessarily have to have complained about losing your hearing at 18, because no one complains about losing their hearing at 18. That was done recently by the Secretary.

But, for example, Agent Orange exposure, boots on the ground in Vietnam, or actually you are talking about the Blue Water Navy about that, but it is a presumptive exposure being in Vietnam. Well, that was done through court cases. That was not the VA's idea. For the veterans who were exposed to Agent Orange, as Mr. Conigliaro mentioned, I think it would be very difficult--well, he did not mention this, but he mentioned being exposed to Agent Orange--I think it would be very difficult for Vietnam veterans were that not the case to prove exposure to Agent Orange.

Senator Brown of Massachusetts. Right. Right.

Mr. Sweeney. I think that that, while for every particular case--for different illnesses and injuries it is hard to make everything presumptive, but I think it is something the VA and the Congress should look at in terms of maybe placing the burden less on the veteran for proving

things that we all know happened. In terms of hearing loss, if you were in field artillery and you came out without hearing loss, I would be shocked.

Senator Brown of Massachusetts. Right. Well, listen, thank you very much. I just want to close, because we do have another panel and I was wondering, is there anything that I have missed at all that you feel you need to add? Paul, anything I missed at all?

Mr. DeMaio. No, sir, not at this time.

Senator Brown of Massachusetts. Okay. Mr. Conigliaro, anything I missed that you want to put in?

Mr. Conigliaro. Yes. I did want to just add a couple things. I appreciate what Mr. Sweeney was saying, and a lot of veterans would not have a document that I just recently had gotten that had been classified for a number of years and just only after only 40 years of being away from Vietnam had recently been given to me that was a former classified document. It is now declassified. And it shows that I had been exposed to 484,000 gallons of Agent Orange in the drinking water in the campsite that we were in in Vietnam.

Unfortunately, most of the guys that I served with over 40 years ago cannot sit here to tell you that now. They are gone. And I have had cancer twice. So I am glad that this had come into my hands.

Senator Brown of Massachusetts. Well, I would ask you

if you could get a copy and submit that for the record.
That would be helpful to me to look at--

Mr. Conigliaro. I gave it to your people.

Senator Brown of Massachusetts. Okay, great. Thank you.

Mr. Conigliaro. One other thing that I would like to say, and this came to me this last week from the VA and this is part more of some of the stuff that I have experienced. They are requesting that I pick up records from a hospital--medical records--that I have never been to for a procedure that does not exist at this hospital. I just got that from the VA this week and I am supposed to get back with them in 30 days, signing this so that they can contact the hospital themselves that I have never been to.

Senator Brown of Massachusetts. Well, the good news is we have some representatives from the VA. I am hopeful that they are hearing your situation and we can draw that connection.

Mr. Conigliaro. This is some of the other frustration that we go through.

Senator Brown of Massachusetts. Yes. Well, listen, I appreciate you both coming out.

Francisco and Mike, is there anything additional you want to add? I mean, obviously, if you have an opportunity to let people know where you are and what you are doing,

that would be appreciated. People can reach me at our Boston offices and speak to Austin in particular or Jack at 617-565-3170, or scottbrown.senate.gov.

So I want to thank our first panel for your honesty in kind of wrestling with some of the commentary and thank both Mike and Francisco for their service and all of you for your service and sacrifice to our country. So thank you.

We will take just a short break and get the other panel set up, so thank you.

[Recess.]

Senator Brown of Massachusetts. Okay, if we could get set. I do not want to waste any time. I want to hear the testimony. So if we could have the second panel.

[Pause.]

Senator Brown of Massachusetts. All right, folks, if we could take seats, we are going to get moving on. I want to make sure we can maximize our time. We have probably got about another hour left, I think, if we need it. If we do not, we will move forward.

Okay. Well, thank you very much to our first panel. We will move on to our second panel. I see, Dr. Mayes, you are here and representing the VA Boston Office. I know we have met on a couple of occasions. Just for the record, I do want to say thank you for making yourself available, not only to me, but to Austin. We have found the breakdown is

sometimes just a lack of point A to point B. How do we marry you up with people like that who are having kind of a bureaucratic nightmare and kind of a run-around.

I know you are new to the job, and I will be honest with you. I am, too, and I notice that the new energy on both our parts has been helpful and a different way of looking at it. We have tried to bring that energy to Washington, as well, and try to get them to focus on streamlining.

Former Secretary Kelley referenced he thought that the process should start earlier, when the soldier is in the military where they can actually start that paperwork earlier, make sure we can have that medical evaluation while in service so when they get out, they get a packet. Private Jones, here is your book and here is your--this is it. I would like you to sign for it, just like you sign for your vehicles and your clothing and you have that paper trail so the soldier cannot come back and say, you know, I never signed for it. As a matter of fact, sir, you did. I think that would be--a hand receipt situation would be better.

So I want to, first of all, thank you for your courtesy in working with our office, working with Austin and helping us resolve these very important cases. We have had cases--Austin, what is the longest case you have had that you worked on?

Mr. Lord. We have had cases with the Board of Appeals that are still open from when Senator Kennedy and Senator-- Senator Brown of Massachusetts. And how many years, ten, 15?

Mr. Lord. Well, that particular one has probably been on appeal for 15 years.

Senator Brown of Massachusetts. Fifteen years. So we have some of those--if there is a way we could work it beyond those cases that are just going on and on and on, because there is--I have heard that before. Well, they are just trying to wait us out until we die. I have heard that many, many times.

So I would ask you to open up with an opening statement, if you would like. We will submit it as part of the record. And then I would like to inquire and then we will, as I said, after, I have to, unfortunately, get ready to get back to D.C. for our votes, but my office will be here for any veterans or others who would like some additional information. So Dr. Mayes.

STATEMENT OF BRADLEY G. MAYES, DIRECTOR, BOSTON
REGIONAL OFFICE, VETERANS BENEFITS ADMINISTRATION,
U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED
BY ABNER CONCEPCION, VETERANS SERVICE CENTER
MANAGER

Mr. Mayes. Senator, I have some prepared remarks here, but I just would like to say it is tough sitting there to hear situations where we could do a better job. I just want to let you know, I introduced myself to Mr. Conigliaro and Mr. DeMaio and I assure you that we are going to make sure that we are going to take care of them as well as the other veterans that we have been working with you and your office on.

Senator Brown of Massachusetts. Thank you.

Mr. Mayes. Senator, it is my pleasure to be here today to discuss our efforts in meeting the needs of veterans residing in the Commonwealth of Massachusetts.

Let me first state for the record that I am grateful for the positive relationship that we enjoy with you and your staff. I appreciated the opportunity to meet with you personally this past year to discuss veterans issues, and I also want to acknowledge the hard work and dedication of Lydia Goldblatt [phonetic], who I do not see here today, and Austin on your staff. I know that the relationship between our offices has yielded a positive outcome for many of our

veterans, and so thank you for holding this important hearing focused on how we can most effectively provide benefits and services to those men and women who have earned them through their service to this great nation.

It is significant that during fiscal year 2010, the Boston VA Regional Office paid out more than \$577 million to 53,000 beneficiaries of the Commonwealth. Our Vocational Rehabilitation and Employment Division worked with 573 applicants for benefits and successfully rehabilitated 80 veterans through the attainment of suitable employment. Not only do these benefits assist veterans and their family members, they also represent a significant economic benefit for the Commonwealth of Massachusetts.

During this most recent fiscal year, Boston employees, many of whom are veterans, I might add, were responsible for more than 9,000 entitlement decisions. They conducted over 8,000 personal interviews and participated in 45 outreach events and five stand-downs.

Our Homeless Veterans Coordinator, Maura Squire, worked tirelessly at shelters and homeless missions within our community, and she was recently recognized for her work in the Boston area by receiving the Secretary's Award for Outstanding Achievement. I might add, Maura is outside today with other members of the staff providing outreach today.

Senator Brown of Massachusetts. Yes, I saw her, and thank you for bringing her along. And if there are veterans here who want to go out--by the way, we do have seats up here, folks. There are a couple of empty seats, so please come up and sit. Thank you.

Mr. Mayes. While much has been accomplished, I agree that much remains to be done. The fact is that demand from Massachusetts veterans for claims decisions outpaced our capacity. By the end of the fiscal year, our inventory of claims requiring a rating decision had increased 37 percent to nearly 8,000. This compares to a nationwide increase of 52 percent, despite producing more than one million decisions for the second year in a row.

Critical to achieving the Secretary's goal for--

Senator Brown of Massachusetts. Can I just ask a quick question?

Mr. Mayes. Sure.

Senator Brown of Massachusetts. So did you say you produced one million, the Boston office, or just total?

Mr. Mayes. No. We produced just under 10,000--

Senator Brown of Massachusetts. Got it. That is what I thought.

Mr. Mayes. --and a million nationwide.

Senator Brown of Massachusetts. Thank you.

Mr. Mayes. Critical to achieving the Secretary's goal

for processing all disability compensation claims within 125 days is for the Boston office to achieve a rate of output that exceeds our demand, and this is the fundamental premise behind the strategy that we are employing here in Boston. Specifically, I was able to hire 16 employees into entry-level positions in Boston's Veterans Service Center as part of the American Recovery and Reinvestment Act of 2009, and these employees are now making a significant contribution toward increasing our productive capacity.

And while the additional resources are helping us in the short term, we are in the midst of preparing for a major transformation led by our new Under Secretary for Benefits Allison A. Hickey. The transformation plan incorporates an integrated approach to people, process, and technology solutions, and a primary focus of this plan is managing our relationship with service members and veterans from the day they join the military, like you pointed out before we got started here.

In September 2011, through a collaborative partnership between VA and DOD, the one millionth user registered for eBenefits, the one-stop shop that provides information about military and veterans benefits and serves as the client services portal for lifelong engagement. Today, the eBenefits portal provides online capability to check the status of a claim, to review the history of VA payments,

request and download personnel records, such as a DD-214, and secure a Certificate of Eligibility for a VA home loan, and additional functionality continues to be added on a regular basis.

VBA is also developing the Veterans Benefits Management System, which is a holistic and integrated technology solution that in 2012 will begin delivering paperless processing capability to support our business process transformation. Combining a paperless processing system with improved business processes is key to providing veterans with timely and high-quality decisions. We have to do things different than we have been doing them for years, no question.

Initiatives aimed at improving our business process and investing in our employees are being tested in a number of our facilities. Those that prove successful will be incorporated into all regional offices, to include our office here in Boston. In the interest of time, I will not list them here. However, they are described in my written testimony that was submitted for the record.

In summary, VBA's transformation effort is aimed at meeting the Secretary's 2015 goal of ensuring that no veteran waits more than 125 days for a decision and that that decision will be free of errors 98 percent of the time. We at the Boston Regional Office are excited about the

prospects for the future and we remain committed to making sure veterans from the Commonwealth of Massachusetts are honored for their service through the delivery of timely and accurate benefits and services.

Senator, this concludes my testimony. I do greatly appreciate the opportunity to be here, to work with you, to see you again, and I look forward to answering any of your questions.

[The prepared statement of Mr. Mayes follows:]

DRAFT

Senator Brown of Massachusetts. Well, thank you, Dr. Mayes. I appreciate it.

I just want to say, I do want to express my thanks to Senator Burr's office, too, and his staff person who has come and is helping out, as well, today. So thank you. Obviously, I mentioned it earlier, but some folks have come in. Thank you to the Council for adjusting with the Council Chamber and letting us have it here, as well as the Mayor.

So you obviously heard the testimony earlier. It is nothing new. You have heard it before. I know you are the new guy on the block. And I know that the IG has made a number of recommendations as to how to improve your office. How will those changes--can you give us an update as to how those changes are going and what, just for the folks that are here, what are those changes?

Mr. Mayes. Well, I got here about a year ago. It was interesting. The OIG had--actually, Mary Ellen McCarty from the committee staff visited me my first week and I had the OIG, I had our internal Compensation and Pension Service come visit. So I had a lot of folks come into the regional office and help me understand areas where we needed to improve, which I find valuable as the new person coming in.

The OIG, in particular, noted, for one, that we were doing a really good job at processing post-traumatic stress disorder claims, which I was pleased to find in place

already. However, traumatic brain injury claims, one of the things they said was we needed some work in interpreting the regulation that had been implemented--I believe it was 2008--that had expanded our ability to reach out to veterans who were suffering from TBI, and I am real proud of that regulation because I happened to be in Washington in charge of the Compensation and Pension Service when we promulgated those regulations.

The thing in Boston that we got caught up in was how we were taking a look at subjective complaints in the medical record and applying that to the requirements in the rating schedule. I will tell you, I personally argued on one case that the IG suggested we should reduce the veteran, and I said, no, I do not agree. I thought that the evidence supported a higher evaluation. So there was a mix. There was a mix of cases where in some cases they found we might be under-evaluating, some over-evaluating.

What we did to address those findings was we put in place a second review requirement, so any veteran who files a claim for traumatic brain injury, we will go ahead and evaluate that veteran's claim. We will evaluate the medical evidence. But we require a second-level review before we sign off on that case. So that is one of the things, in addition to providing additional and ongoing training for our examiners who are handling these TBI claims.

Senator Brown of Massachusetts. I know you noted in reference that one million people are now signed up for the eBenefits. Can you kind of walk us through in more detail what it is used for, how they can sign up for it, what the VA is doing to alert veterans of this? How are you getting the word out? How do you see it improving the type of care and coverage that you actually get?

Mr. Mayes. Well, I think the eBenefits initiative is critical. As I stated in my oral remarks, we just cannot keep, I think in the future, throwing resource after resource at this problem. We have to figure out a different paradigm for serving those who have earned the benefits and services that we provide. And part of that is empowering veterans and veterans' advocates to actually engage with us to push and pull information from us as opposed to us sending letters back and forth and doing business in a model that, really, people do not use anymore.

The eBenefits portal is a platform that allows veterans to do that. Right now, today, a veteran can, if they have a premium account, a veteran can log in. They can actually access information in our behind-the-firewall claims processing system. They are not behind the firewall, but they can look at information that is there on the status of their claim or their appeal. They can update their mailing address, their direct deposit information. It used to be a

veteran would have to call in or send us a letter.

You know, the bottom line is, we are answering ten million phone calls a year. If veterans--

Senator Brown of Massachusetts. How many of those are in your office?

Mr. Mayes. Well, we are not answering those in our office. We have got nine--I believe it is nine call centers around the country.

Senator Brown of Massachusetts. How many are referred to your office, then?

Mr. Mayes. I will have to take that for the record and get you a number back, but it is a significant number are referred to our office, and what happens is, and I have pulled somebody offline. We potentially are pulling a claims file, trying to get a response to send it back to our call agent who then calls the veteran back. If the veteran can participate in the process like they do with their bank or their insurance company, then we can start to take some of those employees that are managing those 10,000 phone calls and put them to work on some of the more complex claims that we need to be focusing on.

Senator Brown of Massachusetts. So are you still dealing with the paper, big stacks of papers and files on people's desks? I understand, and not only in your group but other places throughout the country, we are still

dealing in--you know, you walk into somebody's office and they have got stacks and stacks and stacks of files. Is that still the case?

Mr. Mayes. Senator, unfortunately, we are still dealing in a paper world. We are at the beginning stage of this migration to paperless. A number of years ago, we implemented a paperless record repository--it was called Virtual VA--and it is used for veterans who are filing benefit delivery at discharge or Quick Start Claims, and those are processed out of Winston-Salem, Salt Lake City, and San Diego. So those claims are paperless and have remained paperless.

We are taking that system and web enabling it, which is becoming the Veterans Benefits Management System--

Senator Brown of Massachusetts. Yes, you are modernizing, like--

Mr. Mayes. We are modernizing it.

Senator Brown of Massachusetts. --I mean, what we did with the Arlington National Cemetery--

Mr. Mayes. Exactly.

Senator Brown of Massachusetts. --when we found out that they were using cue cards to identify our soldiers' remains, and Senator McCaskill and I, after they were misidentifying and improperly burying, we passed the Arlington Cemetery bill, and it sounds like it is very

similar. You are in an age where it was not--you know, we did not have the computers or the IT capability. Is there any way to maybe scan all those files and get them in the system, you know, you all scan them and make them part of the eBenefits system and allow the soldier to then play a role? Is that happening?

Mr. Mayes. Well, the beauty of eBenefits is that information that is in a service member's personnel file, for example, their DD-214, potentially orders, their list of--

Senator Brown of Massachusetts. Yes. A lot of it is in IPERMS now, I mean, obviously--

Mr. Mayes. Exactly. That is going to be available on the eBenefits platform. So the idea here is that--

Senator Brown of Massachusetts. So I will be able to use my card, go in--

Mr. Mayes. Yes.

Senator Brown of Massachusetts. --review my pay, my medical, make sure I am current on all the training, and then go in--if I have a pending medical claim, I can go into the eBenefits. There is going to be a separate category in eBenefits. Go, click, oh, gee, they have my date of birth wrong. Will I be able to go in and manually fix a lot of that?

Mr. Mayes. I do not have a quick answer on whether you

can fix information that is in IPERMS--

Senator Brown of Massachusetts. Or send it off through--when I say "fix," send it off to--so I guess the key is how often is that, in fact, monitored, so there is an intake of that new information. Hey, by the way, you have my wrong Social Security number, or you have my wrong address, or my wife passed away, you know, whatever it is. How often do you think--and this is probably a question for higher up, but how often do you think those are monitored?

Mr. Mayes. The eBenefits allows that information to move to VA. If a veteran uses that eBenefits portal, that platform, to file a claim, what happens is it comes to us behind the firewall and--

Senator Brown of Massachusetts. Does that have a quicker opportunity than the paper file, do you think?

Mr. Mayes. Yes, I do. I do. And that is the thing. Right now, a veteran can through the eBenefits portal file an application. Then it comes behind a firewall to us if we have jurisdiction. We are not at the point where we are taking the data from the application and populating our back, behind-the-scene claims processing system--

Senator Brown of Massachusetts. Right.

Mr. Mayes. --but that is where VBMS is going and that is functionality that is already being detailed, the business requirements being developed, so that we are not

just taking an application on our end, downloading it, and starting the process in the traditional fashion.

Senator Brown of Massachusetts. So what is your understanding of when you are dealing with the fully developed claims program? Will the changes being made, do you think, help achieve the goal of 125 days?

Mr. Mayes. I do. I believe that anything we can do to empower veterans' advocates, and in particular Veterans Service Organizations or Agents here in the Commonwealth to assist the claimant, the veteran, in gathering the evidence and putting their stamp on it, saying, look, VA, this is all the veteran has. This is everything that they have. I certify that this is it. There is nothing else that you need to get--

Senator Brown of Massachusetts. Do not send them on a wild goose chase.

Mr. Mayes. Exactly.

Senator Brown of Massachusetts. That seems to be what happened with, obviously, Mr. Conigliaro.

Mr. Mayes. You know, we have certain statutory requirements. There were laws implemented in 2000 that require us to go out and exhaust all efforts to get any evidence that is referenced in an application. So if we can get that affirmative confirmation that there is nothing for us to go get, then we are able to comply with the statutory

requirements and move the case on to a decision.

Senator Brown of Massachusetts. You know what would be helpful, also, is if there are specific rules or regulations or statutory authorizations you need, it would be nice to know of them. If you are seeing, hey, this rule is just so obsolete now, it is killing us, it is wasting time and effort and money and manpower hours, it would be helpful for you to forward those up, either officially or just offline so we can identify what those challenges are.

One of the things that we have found, also, in speaking to various soldiers is that sometimes they have to physically travel around the country actually in order to work on their cases. So what is the VA doing to prevent them from falling through the cracks in cases involving multiple offices? What are you doing specifically in the Boston office for that?

Mr. Mayes. Well, a lot of these cases involve veterans who are not able to manage their benefits for a variety of reasons. They may be so elderly and their medical condition precludes them from understanding--

Senator Brown of Massachusetts. Does the file follow them, or do they have to go follow the file?

Mr. Mayes. Well, in many cases, that file does follow them. In some cases, we will create a guardianship file in these cases where we have to set up a fiduciary. You might

have a claims file in Philadelphia for a pensioner, but the veteran resides in Massachusetts and so we are involved in conducting a field exam, because we have got to make sure that these vulnerable beneficiaries are protected. There are, unfortunately, people in our society that will take advantage of them.

Senator Brown of Massachusetts. Right.

Mr. Mayes. So right now, it is an area where we just have to stay on top of it. I think with VBMS, with the ability to have a paperless system where everything is accessible, whether I am a field examiner here in Massachusetts, or I am a claims examiner in Philadelphia, or for that matter, a claims examiner here, if it is paperless, then all we do is set up a work item and say, hey, you have got to do that field exam.

Senator Brown of Massachusetts. Right.

Mr. Mayes. It is uploaded and we do not have files going back and forth.

Senator Brown of Massachusetts. Right. Do you have-- what is the--let me backtrack. Do you have a fraud unit that you go and identify cases that you say, oh, these may not quite be right. Is there a fraud unit that you have, or do you refer them out?

Mr. Mayes. We work closely with our Office of Inspector General. They have a Criminal Investigations

Division. So if we see a situation where it looks like somebody is being taken advantage of, for example, we will notify our colleagues over in the OIG's office and they will work with us and conduct an investigation.

Senator Brown of Massachusetts. And what about the Vocational Rehabilitation and Employment Division? I am hearing and have enjoyed hearing about the successes of that. What are your plans, if any, to expand that, and in your opinion, what tools and resources does the VA need to do just that?

Mr. Mayes. Well, the Vocational Rehabilitation Division in Boston has been fortunate in that this past year, we were able to hire two more counselors. So we have got additional resources. I think for this--first of all, this program is incredible. Veterans who meet the basic entitlement criteria, if they are service disabled at 20 percent or more, in most cases, they are eligible. We have a counselor sit down with them. We will engage them with a testing protocol, figure out what their skills and aptitudes and desires are in terms of retraining. We will pay for them in many cases to go through this retraining and pay a subsistence allowance in some cases.

The key to improvement, though, is that there is a lot of administrative work that goes on behind the scenes. We need to streamline that and automate some of that so that

our counselors are spending more face-to-face time with veterans.

Senator Brown of Massachusetts. So you have heard from our two witnesses, and I appreciate your reaching out. What I have found, and I am hopeful that there is a solution to that, I mean, there is in our office probably, what, Austin, about 20 or 30 cases that are just going on forever. How many do you think there are?

Mr. Lord. Probably 20. Most of them have had decisions made in the regional office and have been sent to D.C.

Senator Brown of Massachusetts. You know, word gets around. These people talk. You know, all of the veterans talk about their experiences. If there is a way that I can work with your office to identify the top 20 and resolve those cases that have been going on for sometimes upwards of ten, 15 years, we find that you will work through and process them in an expedited manner. But then it goes up to D.C. and it is like the black hole. There is no response. I cannot get through. I have to actually go and personally go meet with the Secretary himself or go browbeat the Secretary to get a decision. Is there anything you can do to help us in that regard? Maybe looking at the cases here, at least, and getting them--you know, the top 20, can we maybe coordinate and say, hey, these are the top 20. These

are the ones that we really want to get zeroed in on. If we can get that backlog, I think it will be reestablishing the trust with the veteran and the VA to know that, hey, if you cannot fix those, how are you going to fix the one that is just recent.

Mr. Mayes. Absolutely, Senator. I am committed to working with the staff. We can identify those 20. You know, when those cases get--first of all, the majority, if not all of these cases, are veterans who they have had a decision, for one reason or another are not satisfied with that decision. The case is on appeal. It gets certified back to the Board and it goes onto their docket and they have a certain docket order that they decide those cases.

Senator Brown of Massachusetts. Right.

Mr. Mayes. The key here is for us to figure out a way for us to resolve the case locally--

Senator Brown of Massachusetts. Before it gets--right. Well, I will hold you to that.

Mr. Mayes. Yes, sir.

Senator Brown of Massachusetts. I appreciate that offer, because we are finding that there are cases that we inherited from Senator Kennedy's office that have been going on for a while, and we get tons of cases from the Congressmen and others and the VSOs that come forward because of the relationship that we have developed. We have

a history now of resolving these a lot quicker than the other offices. So that would be even better.

Now, I noted that more veterans are returning with the hidden wounds that we all know and have heard about. In your experience, would you say these claims are more complicated or more difficult to process than claims for more obvious physical conditions?

Mr. Mayes. Well, I think they can be more complex. Certainly, an amputation--I look back, you think of World War II, not that there are not amputations today, but those are--the location of the amputation is clear. It is easy to match that up--

Senator Brown of Massachusetts. Yes. You can see the amputation--

Mr. Mayes. Exactly.

Senator Brown of Massachusetts. --and this is the chart. It is pretty easy.

Mr. Mayes. That is right.

Senator Brown of Massachusetts. With the hidden wounds, is it a little bit more difficult?

Mr. Mayes. It is a little more difficult, but I would say that VA has been proactive in getting ahead of changing the requirements to make it a little easier. For example, that rule change, I believe in 2008, that changed the criteria for traumatic brain injury, we now have a table

that has ten different facets for cognitive impairment, whereas before we were trying to shoehorn that into--

Senator Brown of Massachusetts. Yes, you were trying to pigeonhole them in, right.

Mr. Mayes. --mental disability criteria.

Senator Brown of Massachusetts. Yes.

Mr. Mayes. So it is much better. And PTSD, we have relaxed the evidentiary standard for proving the stressor for post-traumatic stress disorder claims. Now, instead of saying, okay, we have got to find evidence that this service member was at the site of an IED attack or a bomb blast, now, we are taking that stressor on its face. If the veteran was exposed to hostile military or terrorist activity and the assertion is consistent with the type, place, and circumstance of their service, then we are going to send it over to our colleagues on the health care side to make the determination. Do they have PTSD? We are acknowledging that the stressor is there and then all that is needed is the medical link between that stressor and the disability and how severely disabling is it. So that all changed within the last couple of years. I think we are at a point where it is easier for us to end up with a positive outcome in these cases.

Senator Brown of Massachusetts. So are you getting all the help you need from the national VA?

Mr. Mayes. I think the--when you look at the support that we have gotten from the Congress, frankly, over the last two or three years, the budgets have been generous, people have recognized that we have to take care of these young men and women who are defending our way of life, we were able to hire those 16 employees--

Senator Brown of Massachusetts. Is that enough for you?

Mr. Mayes. I think, in general, and the evidence speaks to the fact that if we do not change the way we do business, it will not be enough. That is why combining--

Senator Brown of Massachusetts. That is why doing the eBenefits and streamlining, consolidating, getting them processed before they leave the military, getting everybody on kind of the same sheet of music--

Mr. Mayes. Going paperless--

Senator Brown of Massachusetts. --going paperless, stop the file mailing--

Mr. Mayes. Right.

Senator Brown of Massachusetts. --and just be able to click and send type of thing, yes. I do not disagree. We have heard that a lot. And I am aware, obviously, of the Congressional changes we have made. Obviously, we have heard a tremendous amount of testimony on these very real issues. I mean, there was one case in particular where the

soldier was a quadriplegic and he was put through the wringer. He and his wife came in. It was deeply moving testimony. They went through the wringer to get the basic benefits.

So, as I said, I have noted a change, and so has Austin and the team since you have been there, so I appreciate you coming and speaking. Is there anything I have missed that you would like to offer in your testimony?

Mr. Mayes. Senator, first, I would just like to thank you for holding this hearing here in the Boston area, and I just want to say one final thing. I am the VA. Many employees from my office are here.

Senator Brown of Massachusetts. Yes. Could they actually just raise their hands here? Who are in the VA?

[Show of hands.]

Senator Brown of Massachusetts. Well, thank you for that effort. I know there may be some veterans here who may want to pick your brain a little bit, so you guys saw that. Just be gentle.

Mr. Mayes. I guess I just want to say that we do deeply, deeply care about--

Senator Brown of Massachusetts. I do not think that is ever in question. I know that everybody who is working there cares. I have never, ever--that has never been the issue, oh, they do not care. That has never been the issue.

Really, the issue, I think, is that they do not have enough resources. They do not have enough bodies. They do not have enough hours in the day. It has never been a care issue, but I appreciate you bringing it up. I did not mean to interrupt.

Mr. Mayes. Oh, no. Thank you. Thank you for saying that, Senator, because these folks are--they are working hard. We are not satisfied. We are not satisfied with the fact that it is taking as long as it is to decide a claim and we are working hard to overcome the amount of work that is coming in because that, ultimately, is what is going to allow us to get to the point that Secretary Shinseki demands that we get to in 2015.

Senator Brown of Massachusetts. Well, I want to thank you and your team for taking time to come over. There are veterans here, I am sure, who will want to reach out and meet and speak with you.

I do want to say for the record that we may submit a question or two to you just as a follow-up. We will accept your testimony and any other documents for the record.

I am anticipating probably having a similar hearing probably in six months to see what the progress has been. I am not anticipating that being a problem. We will work with the Chairman and Ranking Member to try to do that. And once again, you need to let us know when you are having issues so

we can bring it up the food chain.

But I want to thank each and every one of you for coming. As you know, we have our staff here. The VA has their folks here. There is no better way to put a face to an issue. But I want to thank you all for coming, and I hereby declare this hearing closed.

[Whereupon, at 10:57 a.m., the committee was adjourned.]

DRAFT