



# CONGRESSIONAL TESTIMONY

*STATEMENT FOR THE RECORD*

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

PROVIDED TO THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

HEARING ON

**"BUILDING AN ACCOUNTABLE VA: APPLYING LESSONS LEARNED TO DRIVE FUTURE SUCCESS"**

**FEBRUARY 28, 2023**

Chairman Bost, Ranking Member Takano, and Members of the Committee:

The American Federation of Government Employees, AFL-CIO (AFGE) and its National Veterans Affairs Council (NVAC) appreciate the opportunity to submit a statement for the record on today's hearing titled "Building an Accountable VA: Applying Lessons Learned to Drive Future Success." AFGE represents more than 750,000 federal and District of Columbia government employees, 291,000 of whom are proud, dedicated Department of Veterans Affairs (VA) employees. These include front-line providers at the Veterans Health Administration (VHA) who provide exemplary specialized medical and mental health care to veterans, including those newly eligible for treatment under the Sergeant First Class (SFC) Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act. Furthermore, we represent the Veterans Benefits Administration (VBA) workforce responsible for the processing veterans' claims, the Board of Veterans' Appeals (Board) employees who shepherd veterans' appeals, and the National Cemetery Administration Employees (NCA) who honor the memory of the nation's fallen veterans every day.

With this firsthand and frontline perspective, we offer our observations on the problems the VA Employees are facing, many of which were created or exacerbated by VA leadership. AFGE provides these examples with goal of both urging the VA to address these issues administratively and highlight to the House Veterans Affairs Committee to use its oversight and legislative authority to better enable VA employees, over a third of whom are veterans themselves, to continue serving veterans. Specifically, AFGE will identify current issues and needed solutions related to:

- Veterans Benefits Administration:
  - Performance Standards, including:

- Counterproductive Frequency of Changes to Processes
  - Failure to Award Credit for Each Issue Claimed
  - “Talk Time” at VBA National Call Centers
- Addressing the critical need for staffing with the rapid influx of new PACT Act claims.
- Ensuring the training for VBA employees is adequate, nationally consistent, and beneficial.
- Board of Veterans Appeals
  - Performance Standards
  - Recruitment and Retention
- Veterans Health Administration
  - Monitoring that VHA has the staff it needs to meet the increased demand created by the PACT Act.
  - Ensuring that VHA is using the compensation tools it gained in the PACT Act to benefit lower-grade front line clinicians.
  - Ensuring that VHA compensates its employees what they are owed.
  - Restoring full HR functioning at the facility level through additional hiring, training, and decentralization.
- VA Police

We hope you find these suggestions constructive, and we stand ready to work with the Members of the Committee to make necessary and positive improvements to the VA.

## **Performance Standards for VBA Employees**

For many years prior to the passage of the PACT Act, AFGE has highlighted the many problems with the VBA performance standards faced by its employees. Standards are often introduced and implemented for VBA staff in a haphazard manner and are overly focused on metrics that prioritize quantity over quality, providing a disservice to the veterans they are intended to benefit. Unfortunately, these problems have not been solved by the PACT Act, but instead further highlighted with increased demand from the PACT Act. When asking bargaining unit employees in the VA's Regional Offices (VARO) to identify the single biggest obstacle they face to successfully performing their duties and serving veterans, the universal answer is constantly changing performance standards.

### **Counterproductive Frequency of Changes to Processes**

A classic example of VBA's constant change to performance standards was the implementation of new performance standards for Veteran Service Representatives (VSR) and Rating Veteran Service Representatives (RVSRs) on October 1, 2020, with a three-month acclimation period. Since the implementation of these standards, VBA made changes to these standards in November 2020 and December 2020, and then announced at the end of the end of December 2020 that it would make more changes leading to another three-month acclimation period. These standards were changed again in January of 2021, again in March of 2021, and were finalized on April 1, 2021. For context, these standards are incredibly complex and take time to learn, requiring acclimation periods to allow the employees to fully understand them. Having six changes made in six months was severely disruptive and made it difficult for staff to perform their duties and effectively serve veterans. Had VBA worked collaboratively with AFGE representatives from the beginning when changing these standards to gain employee

perspectives and input, many of these problems could have been avoided and VBA would have been able to process claims in a more efficient and timely manner.

The implementation of the PACT Act is leading to changes in performance standards for numerous positions throughout VBA, while the manual that states correct procedures and provides technical advice is updated weekly. Through AFGE's midterm bargaining, AFGE proposed a Memorandum of Understanding to allow for a 180-day adjustment period for claims processors to learn these new complex procedures and adjust accordingly. The VA refused, and instead stated that the 90-day adjustment period was non-negotiable. This unnecessary and self-imposed obstacle will only continue to stress and pressure VBA employees, lead to additional errors, and inadvertently cause errors to veterans' claims.

Furthermore, since the start of 2023, VBA has imposed new standards for Authorization Quality Review Specialists, Rating Quality Review Specialists, Fiduciary Program Specialists, and Quality Review Specialists in the National Call Center. AFGE attempted to reach a memorandum of understanding with VBA on these changes prior to their implementation on January 1, 2023, rather than VBA unilaterally imposing new standards on the workforce. While AFGE was able to bargain issues related to appropriate arrangements and procedures with the VBA, the VBA refused to negotiate the metrics themselves. These standards will lead to additional employee errors, burnout, higher turnover, and decreased service to the veterans they serve. As these standards are implemented and other performance standards are updated, AFGE urges VBA to work in good faith with AFGE to design fair and attainable standards that prioritize quality over quantity, and best serve veterans. Specifically, AFGE recommends that the VBA offer a more generous grace period to learn the evolving complexities in both PACT Act and older claims and give employees additional time between manual updates which will

allow employees to absorb information prior to adjusting to changes. AFGE also urges the committee to perform oversight on the developments of new VBA production and quality standards in response to both older claims and new PACT Act claims to ensure that these standards enable employees to serve the best interests of veterans.

### **Failure to Award Credit for Each Issue Claimed**

Clearly, every veteran is supposed to be treated equally by the VA, but VBA performance standards can cause disparate treatment depending on the claim filed. When evaluating claims, VBA does not easily distinguish the number of issues or contentions each veteran makes in their claim, instead using a complex tier system that unnecessarily hurts the ability of VSRs and RVSRs to meet their standards. This is arbitrary and punishes employees who get assigned claims with a significant number of contentions, but not enough to earn additional credit. This can unfairly punish veterans who, through no fault of their own for the number of contentions they submit in a given claim, realize negative decisions affecting their claims.

The PACT Act will lead to the filing of many claims with significantly more contentions and distinctions. While we have advocated repeatedly for a change in employee production standards that adequately account for complicated claims, the implementation of the PACT Act necessitates a fair and accurate recalibration of standards, and new training programs and procedures to factor in the additional work and time that will be required to process these new claims and urge the committee to monitor the implementation of these performance standards. We also urge the Committee to monitor the VBA's changes to these standards and ensure that they enable employees to best serve veterans, instead of meeting arbitrary and self-imposed internal metrics.

### **“Talk Time” at VBA National Call Centers**

For years, AFGE has raised concerns to this committee about the VBA's measure of the timeliness or "talk time" component for Legal Administrative Specialists (LAS) who answer veterans' questions at VBA's eight national call centers. Each LAS is allotted a certain amount of time they can be on the phone with a veteran based upon the employee's GS level. This can be as little as eight minutes and thirty seconds. This is a one size fits all standard that does not consider common issues veterans often call in about including a "first notice of death call" where a veteran's spouse is calling to inform the VA that the veteran has passed away. Such a call may take 20-30 minutes. The standard also does not take into account the numerous older veterans who have difficulty communicating or veterans who have more than one question or issue to resolve. It also does not account for a veteran not having their VA "Pin Number" available and leaving the LAS on the phone while they attempt to locate the information. Additionally, the standard effectively disincentivizes an employee from suggesting to a veteran about a benefit or program he or she may be eligible for but does not know to ask about, because it would take more time on the phone.

With passage of the PACT Act, there has been a predictable surge in calls to the national call centers with numerous questions for VBA employees. Despite the fact this problem that was easily anticipated by VBA leadership, employees, including those in the National Call Centers, have not been given any additional time to meet their talk time standards, and were only provided with a short generic script to respond to a veteran's complex questions.

An employee whose primary responsibility is to answer a veteran's questions should not have their performance measured by how quickly they can get a veteran off the phone, and the VA should not prioritize a contrived metric over providing valuable customer service to veterans,

especially in the wake of a massive and complex expansion of benefits to millions of veterans. VBA should remove Talk Time as a critical component of employee performance.

Furthermore, it has come to AFGE's attention that on October 20, 2022, VBA instituted new performance standards for the call centers that further restricted the use of "wrap up time" at the end of the day for LASs to input data, prepare mail to veterans and complete other tasks that they could not handle during calls. This change was also accompanied by a new availability standard that substituted percentages for raw minutes, further increasing stress on workers, and unnecessarily increasing the difficulty of the job. These rules, which result in unnecessarily limiting bathroom breaks, are pennywise and pound foolish, and decrease the quality of service that veterans receive.

### **VBA Staffing and Backlog**

The enactment of the PACT Act has resulted in a need to increase the size of the VBA workforce to process the expected surge in claims from newly eligible veterans. In a Senate Veterans Affairs Committee Hearing on February 16, 2023, Josh Jacobs, the nominee for Undersecretary of the VBA stated that VBA expects 700,000 new PACT Act claims to be filed in 2023. This in part explains why in a presentation made to AFGE representatives, VBA estimated that the current backlog of 150,000 claims is expected to increase to 450,000 claims in 2023. Additionally, according to the data on staff vacancies required by Section 505 of the VA MISSION Act, VBA has 2,806 vacancies as of the end of the third quarter of Fiscal Year 2022. Despite this, while the VA has hired many new claims processors, AFGE has heard reports of slow hiring for employees, one example being the Cleveland, Ohio, VARO, which is having a delay in hiring candidates who are disabled veterans. These delays have taken months, causing some applicants to accept other jobs. Additionally, given the months it takes to effectively learn



to process claims, this delay is worsening the backlog to the detriment of veterans. AFGE urges the VBA to continue to quickly ramp up its staffing and training of claims processors and allow it to better manage the backlog of claims, instead of relying upon mandatory overtime, which exacerbates employee burnout.

### **Training**

The PACT Act mandates several new VA workforce training initiatives. However, the information shared with employees since enactment has been greatly inadequate. So far, VBA employees have five Talent Management System courses, the vast majority of which last 30 minutes each, courses and given a new Standard Operating Procedure to read. To date, no hands-on training or opportunities to ask questions of a live instructor have been offered.

This will foreseeably create inconsistency in the future with different VAROs creating different determinations. AFGE urges the VBA to increase training, including ample opportunity to ask questions. Specifically, for all training to be effective, including PACT Act training, it is essential that management solicit input from the labor representatives' rank and file members who are actually working claims as to what training would enable them to better serve veterans. Furthermore, AFGE recommends that VBA create a team of specialized instructors to travel to different regional offices and provide this training to employees while using real claims as examples, giving employees the opportunity to ask questions in real time. By using this model and not having each Regional Office assemble their own team, this will ensure consistency in training across the agency, and create less variability between Regional Offices.

### **Board of Veterans Appeals**

AFGE is proud to represent the employees who work at the Board of Veteran Appeals (Board). This dedicated workforce plays a critical role in the final stage of the claims process for

claims that require additional review. However, there have been recent decisions made at the Board that have created negative consequences for Board attorneys and the veterans they serve.

### **Performance Standards**

Board attorneys, like VBA claims processors, face difficult to meet performance standards that cause burnout and harm recruitment and retention. Prior to the implementation of the Appeals Modernization Act (AMA), Board attorneys were expected to complete 125 cases a year, a pace that averaged 2.4 cases per week. Each case, regardless of the number of issues decided, carried the same weight towards an attorney's production quota. In FY 2018, the Board increased its production standards from 125 to 169 cases per annum, (or 3.25 cases per week), a 35% increase in production requirements which was overwhelming for Board attorneys. In FY 2019, the Board created an alternative measure of production for Board attorneys which evaluated the total number of issues decided by an attorney, regardless of the number of cases completed, setting that number at 510 issues decided. AFGE supports the creation of this alternative metric as it better accounts for the work required to complete each case. However, we caution that measuring the number of issues can also be manipulated to create unfair metrics. Unfortunately, this manipulation appeared in FY 2020, the first full year the AMA was fully implemented, because while the case quota remained at 169, the issue quota was raised to 566. Finally in FY 2021, the quota was changed to a more manageable but still difficult 156 cases or 491 issues. Unfortunately, AFGE has heard reports that the Board intends to increase its production quota for the next fiscal year in an attempt meet expected appeals as a result of the PACT Act. Simply increasing the quota will not increase production and may result in reduced quality for veterans who have often waited years to have their appeals heard.

These standards are also harmed by the rule that a Board attorney may only receive credit for a case once a judge signs off on the work. While this requirement may appear reasonable, delays caused by overburdened judges can cause attorneys to miss their quotas through no fault of their own. When attorneys are adjudged to be performing poorly based on such missed quotas, it violates Article 27, Section 8, Subsection E of AFGE's collective bargaining agreement with the VA, which states "When evaluating performance, the Department shall not hold employees accountable for factors which affect performance that are beyond the control of the employee." The VA should adhere to the terms of the collective bargaining agreement and not penalize workers for no fault of their own. This is especially true since the Board recently began the practice of hiring Veteran Law Judges, or Board Members, who have no experience in Veterans law, and are simultaneously harming employees' performance and slowing down the appeals process for veterans who have waited long enough for their claims to be finalized. The leadership of the VA and the Board should revert to hiring Board Members with significant veteran law expertise and look to current Board Attorneys to fill those positions.

### **Recruitment and Retention**

To further assist with recruitment and retention, the Board of Veterans' Appeals is a place where attorneys should have a path to work for their entire careers. To accomplish this goal, the Board needs to re-establish a standard career ladder for GS-14 Board Attorney positions which had until recently existed for new hires. Eliminating this level of growth and compensation for attorneys is a direct way of dissuading qualified applicants from joining the Board of Veterans Appeals or choosing to stay long term. The VA should reverse this shortsighted policy and attract the best candidates to the Board's ranks.

Additionally, AFGE strongly supports the creation of a journeyman non-supervisory GS-15 Board Attorney position. Currently, Board attorney grades range from GS-11 to GS-14. Of the 871 attorneys currently at the Board, 439 attorneys are at the GS-14 level. While not all attorneys would qualify or choose to advance to a GS-15 position, creating the possibility for 100 to 200 GS-15 attorneys would help with long-term recruitment and retention. It is also important to note that there are non-supervisory journeyman GS-15 attorneys within the VA Office of General Counsel, thus setting a precedent. As Board attorneys are in the Excepted Service, it is within the Secretary's discretion to create and fill these new positions. AFGE has and continues to encourage the Secretary to create this advancement opportunity and has asked Congress to voice its support for this change or pass legislation establishing its creation.

### **VHA Staffing, Compensation, and Other Workforce Issues**

As a result of the PACT Act, VHA is facing an unprecedented increase in demand for medical care. The hiring and training of additional health care personnel will be essential to meet the screening and treatment needs of newly eligible veterans in virtually every medical center service line, in particular primary care clinics, emergency rooms (ER), cardiology, pulmonology, urology, gastroenterology and dermatology. Unfortunately, an informal survey of our members reveals very limited efforts to hire, train or carry out other activities for an effective rollout of new PACT Act health care initiatives and increased demand for services.

#### **Staffing**

There is an urgent need for VHA to address the chronic short staffing that significantly worsened during the COVID-19 pandemic. According to the data on staff vacancies required by Section 505 of the VA MISSION Act, VHA had 76,531 vacancies as of the end of the third quarter of Fiscal Year 2022. Outpatient clinics are forced to shut their doors due to lack of staff.

Many facilities cannot reopen their hospital beds due to a critical nurse staffing shortage, leaving veterans in the ER for up to 48 hours waiting to be admitted. AFGЕ received an encouraging member report from a VISN 6 facility that is actively carrying out onboarding events to expedite the hiring of more clinical staff, an effort that should be replicated across the country. Another VISN 6 provider provided a less encouraging report that his facility’s management has failed to step up recruitment and retention efforts, and in some cases, is actively pushing employees to resign.

AFGE has received very troubling reports from our locals at numerous facilities that medical center directors who received retention incentive funds provided by the PACT Act have not distributed them to front line clinicians even in the face of high vacancy rates. Also, the job listings posted by medical centers in many locations failed to align with the much higher vacancy rates used to justify these retention incentive dollars. More generally, congressional oversight of the deeply flawed and unreliable vacancy data that is currently collected and published by the VA is badly needed.

A failed HR modernization effort launched under the Trump Administration and continued under the Biden Administration is exacerbating staffing shortages. Under this modernization, Human Resources (HR) functions traditionally performed by personnel at medical centers were centralized at the VISN level. AFGЕ members across VISNs report that lack of coordination between the facilities and the VISN are extending the time it takes to hire employees and often leads to “bait and switch” offers where new employees take jobs based on compensation, benefits and duties that change when they begin the job. Many qualified candidates lose interest in VA positions or accept a job only to quit shortly thereafter when it was not what was agreed upon. This situation deteriorates even further for many employees who

choose to stay, as VA employees also report that HR mistakes create “debt” for employees whose pay is clawed back retroactively. Employees receive inadequate information about how they can have this debt waived.

For an agency that has claimed it wants to recruit the best providers possible and that recruitment and retention of employees is a top priority, the counterproductive centralization of HR functions away from the medical centers must be reversed. Front line personnel and their labor representatives need access to knowledgeable HR specialists *at the facility level* to resolve routine personnel matters.

### **Compensation**

Compensation that is not competitive with private pay remains a major barrier to both recruitment and retention. The pay grades of a number of lower-wage VHA positions, including the nursing assistants and licensed practical nurses who make up the core of VA community living center workforces, are still too low to recruit and retain sufficient staff. Similarly, medical support assistants who handle patient scheduling and other critical support functions are already working at a low grade that causes a lot of attrition and in some cases are facing downgrades to even lower positions.

According to the VA master agreement, the VA should review wages offered by non-VA hospitals in a region to determine if VA pay is competitive but often fail to fulfill this obligation. As a result, VA employees are often paid based on out-of-date information about local wages.

While it is encouraging that the PACT Act may make it easier to hire more housekeepers to keep medical facilities clean and safe, this position has had a high attrition rate for many

years. VA needs to raise their pay grades to make them more competitive with the private sector.

The lack of mobility between grades further worsens shortages as employees stymied by lack of opportunity for promotion—even after years of experience and/or receiving additional training—leave for jobs where their advanced skills are rewarded.

### **Collective Bargaining**

In 1991, Congress amended Title 38 to provide medical professionals who work at VA facilities with limited collective bargaining rights (which include the rights to use the negotiated grievance procedure and arbitration) (P.L. 102-40 §202). Under 38 USC §7422, covered employees can negotiate, file grievances and arbitrate disputes over working conditions except “any matter or question concerning or arising out of”:

- professional conduct or competence (defined as direct patient care or clinical competence);
- peer review; or
- the establishment, determination, or adjustment of employee compensation.

This has resulted in VA management interpreting these exceptions very broadly and refusing to bargain over virtually every significant workplace issue affecting Title 38 medical professionals. It is also very problematic that VA managers are increasingly asserting “7422” themselves, rather than requesting a 7422 ruling from the VA Under Secretary for Health (USH) as required by statute. (The statute authorizes the VA Secretary to make 7422 rulings. In a 1992 memorandum, the VA Secretary delegated this authority to the USH (formerly called the Chief Medical Director.).

When managers refuse to seek a USH 7422 ruling, the union's efforts to enforce the rights of Title 38 professionals are hamstrung because nothing prevents the VA medical center from belatedly and retroactively obtaining a USH 7422 ruling when the Federal Labor Relations Authority (FLRA) threatens the VA with ordering remedial relief for the professionals. When local management asserts Section 7422 but does not seek an USH ruling, the union is forced to file an Unfair Labor Practice (ULP). The FLRA Regions generally decline to take any action. However, if the FLRA region starts to pursue an action over the ULP charge, the management will then seek an USH ruling even though it is late in the FLRA litigation process.

VA Title 38 medical professionals have extremely limited collective bargaining rights in comparison to their counterparts in other federal agencies, state and local government systems, and the private sector. As a result, Registered Nurses (RNs), doctors and other impacted employees at the VA are experiencing increased job stress, low morale, and burnout. This in turn, exacerbates the VA's recruitment and retention problems. AFGE seeks a legislative fix that would restore full collective bargaining rights to title 38 employees. But in the absence of this reform, VA should be held accountable for its overuse of 7422 exceptions to block workers' right to grieve agency wrongdoing.

### **Contract Care Access Standards**

The MISSION Act required the Department to implement access standards to determine when veterans should be referred outside the VA health care system for care in the private sector through the Veterans Community Care Program (VCCP). These standards consider how long veterans wait to access VA in-house care and how long it takes for the veteran to drive to the closest VA medical facility in order to determine if the veteran should be referred to a VCCP provider. If a veteran must wait more than 28 days for VA in-house care or drive more than 30



minutes for VA in-house primary care or 60 minutes for VA in-house specialty care, than he or she can choose to go outside the VA to a VCCP provider instead.

The access standards have caused unprecedented number of VCCP referrals. But the double standard on wait times for VA vs. VCCP care has resulted in many veterans waiting longer and driving further for non-VA care than they would have if they continued receiving VA in-house care. A Government Accountability Office analysis of VHA data from the third quarter of fiscal year 2022 found that VA medical scheduled timely referrals for VHA facility appointments more frequently than community care.

The current double standard must be eliminated; a revised access standard must be applied equally to the VA and VCCP providers. Currently, the access standards do not consider the wait times and driving times that veterans will face to access care outside the VA.

In addition, the driving time component of the access standard is not restrictive enough and results in the overuse of contract care even when a veteran would be better served by in-house care. VCCP providers should be supplementing, not supplanting the VA. Multiple studies have shown VA's own care to be of higher quality with better health outcomes, and less costly than private sector care.

The access standards also apply a double standard to care provided by telehealth and tele-mental health (“telehealth”). The VA has long been recognized as a leading telehealth model by other health care systems. Yet, the access standards do not count VA in-house telehealth services in determining if the VA has met the standard. As a result, veterans who would have not had any wait for VA-provided telehealth care are sent to VCCP providers who treat them through telehealth programs of unknown quality and at greater cost to taxpayers.

Last Congress, Secretary McDonough testified before the Senate Veterans' Affairs Committee that he was considering revising the access standards in order to address the skyrocketing costs of VCCP care. He also committed in his testimony to propose changing the way that VA telehealth availability is factored in determining eligibility for community care. The department has not yet proposed these changes.

Oversight is needed to ensure that the VA Secretary revises the current access standards to increase the drive time limit and count VA in-house telehealth when determining whether the VA has met the standards. Additionally staffing levels at facilities must be adjusted so that veterans' needs for in-house care are not compromised by workloads associated with VCCP referrals.

### **Privatization**

The VA MISSION Act of 2018 established a nine-member Asset and Infrastructure Review (AIR) Commission to make recommendations regarding “closure, modernization and realignment” of VHA facilities. AFGI took a cautious approach at first to the Commission, hoping that the process might result in more attention to the VA significant need for infrastructure investment and modernization. However, in March 2022, the VA announced its recommendations to the AIR Commission, calling for a vast privatization of VA services through the closure or downsizing of nearly 60 VA medical centers, around a third of the total across the country. The VA’s plan called for transferring these functions to new, mostly smaller facilities that had yet to be funded or built, or to the private sector, with almost no analysis of the quality, cost, or availability of those private services. The VA used outdated, pre-pandemic analyses to support its recommendations, an approach that was lambasted by its own OIG, the Government Accountability Office, and a panel of private experts the VA convened through MITRE

Corporation. Despite the obvious frailty of the VA's process, the MISSION Act established a fast-track process for approving the recommendations, with little opportunity for Congress or other stakeholders to exert any influence.

AFGE and the NVAC mobilized across the country in opposition to the AIR Commission, holding rallies, contacting members of Congress, publishing articles, and partnering with affected veteran organizations. As the result of these efforts, in June 2022 a bipartisan group of senators including many from the Senate VA Committee announced their opposition to confirming any AIR Commission members. In July 2022, a bipartisan House majority voted to strip funding from the AIR Commission and to deauthorize the commission in the annual NDAA. In December, Congress approved the 2023 omnibus spending bill which defunded the AIR Commission and imposed new restrictions on the VA ability to close or downsize rural healthcare facilities.

Nonetheless, the threat of privatization persists. A separate section of the MISSION Act, unaffected by Congress's recent actions, directs the department to conduct strategic infrastructure reviews every four years, with the first review expected in 2023. In the late summer of 2022, following the collapse of the AIR process, several VISN's contacted AFGE locals with plans to continue pursuing the hospital closures recommended to the defunct AIR Commission, with no apparent attempt to update the discredited market assessments behind those recommendations.

### **Other VHA Workforce Matters**

Veterans in need of screening and treatment for toxic exposure need and deserve the thorough, specialized, comprehensive care that only the VA provides. We received a concerning report from VISN 23 that veterans may be shortchanged by a new "bookable hours" policy that

cuts the time that a provider can spend to assess a new patient from sixty to thirty minutes. Doctors unable to meet this standard must choose between working extra hours off the books to compensate for time they spend assessing new patients or depriving veterans of the care they deserve.

Our members report that the online training on new screening tools that has been provided is a good first start but that more comprehensive training is needed to ensure that all clinicians and support personnel have a full understanding of the specialized screening processes and treatment needs of veterans with toxic exposure.

### **VA Police**

AFGE is proud to represent the VA Police Officers in facilities across the country. As is evidenced by a VA Office of the Inspector General (OIG) Report issued February 22, 2023, titled “Security and Incident Preparedness at VA Medical Facilities,” there are significant challenges facing the VA Police Department. As the summary of the report states that “[t]he OIG identified multiple security vulnerabilities and deficiencies, most notably staffing shortages that contributed to the lack of a visible and active police presence. To meet VA’s established security requirements, facilities will need to fill police officer vacancies, as employing sufficient security personnel and correcting security weaknesses are inextricably linked.”

AFGE agrees with the need to recruit and retain more police officers to keep veterans and employees safe at VA facilities. Approximately 90 percent of VA police officers are veterans. Its officers are highly trained in crisis intervention to de-escalate situations at VA facilities, and these officers have unique knowledge of the facilities within their jurisdiction and how to interact with veterans. However, regardless of the number of officers recruited, if the VA cannot retain them, it does not help the agency. As AFGE advocated for years, the single biggest change that

VA leadership can do to help with the recruitment and retention to the VA Police Force is to grant the VA Police Officers Law Enforcement Officer (LEO) Retirement either through administrative action or by supporting this bipartisan legislation.

AFGE has raised this issue before, including in submitting a Statement for the Record on a hearing before the House Veterans Affairs Committee Subcommittee on Oversight and Investigations titled “Modernizing the VA Police Force: Ensuring Accountability” in the 117<sup>th</sup> Congress on July 13, 2021. As was stated previously, under 5 U.S.C 8336(c), any LEO who either serves 25 years or is age 50 or older and serves 20 years is entitled to immediate retirement with a full pension and has mandatory retirement at age 57 (with few exceptions). These are commonly referred to as “6(c) special retirement benefits” (6(c) benefits). However, the definition of LEO relied upon in the code (5 U.S.C. 8401(17)) to grant 6(c) benefits does not include VA Police Officers, and in turn they do not receive special retirement benefits on par with federal law enforcement officers at other federal agencies. AFGE has endorsed the “Law Enforcement Officers (LEO) Equity Act,” introduced by Representatives Bill Pascrell, Jr. (D-NJ), Andrew Garbarino (R-NY), Gerry Connolly (D-VA), and Brian Fitzpatrick (R-PA) (this bill was H.R. 962 in the 117<sup>th</sup> congress, and is pending re-introduction in the 118<sup>th</sup> Congress). If enacted, this bill would grant 6(c) benefits to VA Police Officers as well as law enforcement officers of other federal agencies who do not have 6(c) benefits, including the Department of Defense (DoD), Federal Emergency Management Agency (FEMA), and the Federal Protective Service (FPS). In the 117<sup>th</sup> Congress, this legislation earned 105 bipartisan co-sponsors, including Chairman Mike Bost (R-IL), Ranking Member Mark Takano (D-CA), and seven members of the House Veterans Affairs Committee in the 118<sup>th</sup> Congress.

Granting 6(c) benefits to VA Police Officers would significantly help the VA Police Force with recruitment and retention. Currently, the VA hires many new recruits, sends them to the Law Enforcement Training Center (LETC) for training, and sees these officers depart the force for other opportunities within the federal government that have 6(c) benefits, or to other state and local police departments. If VA Police Officers were granted 6(c) benefits it is expected many more would stay with the department and feel less financial incentive to leave.

The continuous turnover of VA Police Officers represents a significant cost for the VA. Not only does the VA have to pay for new officers to attend LETC to backfill positions, at a cost of thousands of dollars per officer, but the VA is spending resources on specialized training for its officers who leave the VA. A key example of this is the suicide prevention training that was enacted as part of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020. Because of this law, VA Police Officers who serve at VA Medical Centers, Community Based Outpatient Clinics (CBOC), or VA Regional Offices are now trained to prevent a veteran in a crisis situation from harming himself or herself or others. This is incredibly critical and specialized training that the VA invests in to save lives. The high attrition rates of VA Police Officers who undergo this training puts an added strain on VA resources. Granting 6(c) benefits to VA Police Officers will diminish this turnover, and help the VA maintain a stronger and better trained police department with higher morale. While the “Law Enforcement Officer (LEO) Equity Act,” is not in the jurisdiction of the House Veterans’ Affairs Committee, AFGE urges that members of this subcommittee, and consequently the full committee, to join their colleagues to become co-sponsors of H.R. 962 and urge its passage in the House. Additionally, while not a permanent solution, AFGE urges Secretary of Veterans

Affairs Denis McDonough to use his administrative powers to grant 6(c) benefits to the VA Police Officers until these benefits can be codified.

**Conclusion**

AFGE thanks the House Veterans' Affairs Committee for the opportunity to submit a Statement for the Record for today's hearing. AFGE stands ready to work with the committee and the VA to address the workforce issues currently facing the department and find solutions that will enable VA employees to better serve our nation's veterans.