

**STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
"INVESTIGATING VA'S MANAGEMENT OF VETERANS' PAPER RECORDS"
JUNE 15, 2016**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Office of Inspector General's (OIG) recent reports on the review of records disposition for veterans' claims-related documents, *Review of Alleged Shredding of Claims-Related Evidence At The VA Regional Office Los Angeles, California, and Review of Claims-Related Documents Pending Destruction at VA Regional Offices.*¹ Our statement today focuses on the results of work conducted related to a hotline allegation that management and staff at the Los Angeles, California, VA Regional Office (VARO) were not following Veterans Benefits Administration (VBA) policy on management of veterans' and other governmental paper records. We will also discuss the effectiveness of VA's controls for compliance with records disposition guidance for veterans' claims-related documents observed during our unannounced inspections at 10 VAROs across the nation. I am accompanied by Ms. Dana Sullivan, Director, OIG's San Diego Benefits Inspections Division.

BACKGROUND

In April 2009, the OIG established an independent benefits inspection program to provide recurring oversight of VAROs, focusing on disability compensation claims processing and performance of Veterans Service Center (VSC) operations. Since the inception of the program, the OIG has consistently reported on the need for enhanced policy guidance, oversight, training, and supervisory review to improve the accuracy and timeliness of disability claims processing and VARO operations. We also perform specialized reviews of VBA programs and initiatives. A complete and accurate record is critical to ensure claims are identified and worked, and that staff make timely and accurate decisions. Inappropriate shredding of documents can lead to lost claims, veterans experiencing delays in obtaining compensation decisions, decisions based upon incomplete information, and incorrect decisions. When claim information is inappropriately disposed, it could also affect the integrity of VBA's reported workload.

¹ Both reports were published on April 14, 2016, and are available at <http://www.va.gov/oig>.

Inappropriate shredding of veterans' claim information was identified in 2008 at four VAROs during our audit of claims-related mail processing.² The issue came to our attention at the Detroit, Michigan VARO in September 2008, when we were told that claims-related documents might have been inappropriately discarded in shred bins. We reviewed the entire contents of 18 shred bins at the Detroit VARO and identified 80 documents that were inappropriately discarded. After finding the claims-related documents at the Detroit VARO, we expanded our review to include the Waco, Texas; St. Louis, Missouri; and St. Petersburg, Florida VAROs. Overall, the OIG identified 132 claims-related documents that VARO staff inappropriately discarded, of which 45 could have affected claim benefits. The remaining 87 documents consisted of death certificates, as well as correspondence from veterans and award documents that would not have affected claims, but should have been retained in the claims files. Shred bins had been located in different work areas throughout these VAROs allowing staff to deposit documents no longer considered necessary. In order to protect veterans, since the documents contained personally identifiable information, the staff could not deposit the documents in open trash collection bins. VBA had no controls in place for review of documents placed in shred bins, and no requirement for any final review prior to destruction. Therefore, an employee could easily dispose of documents, either purposefully or unintentionally. The extent of the inappropriate claims-related shredding could not be determined as the bins reviewed contained 14 or fewer days of material.

On October 14, 2008, the OIG briefed James Peake, the then Secretary of Veterans Affairs; Patrick Dunne, the then Under Secretary for Benefits (USB); and other senior VA and VBA officials concerning the documents found in the shred bins. The USB directed every VARO to suspend all document shredding. In addition, the USB instructed every VARO Director to review and inventory all contents in shred bins, report all claims-related mail or original supporting documents found in shred bins, and verify that the contents did not include documents needed for processing claims. VBA's search of shred bins found an additional 474 claims-related documents in 41 VBA locations nationwide, including 40 of the 57 VAROs and VBA's Records Management Center in St. Louis, Missouri.

VBA Policy on Management of Veterans' and Other Governmental Paper Records

In November 2008, VBA issued additional policies for the maintenance, review, and appropriate destruction of veterans' and other governmental paper records in response to our findings and VBA's own administrative review results.³ This policy also established two new positions—the Records Management Officer (RMO) and the Division Records Management Officer (DRMO)—to protect against the inappropriate shredding of documents.

The RMO is responsible for overseeing all programs established for the management of veterans' records and is the subject matter expert and records liaison for administrative records. Additionally, the RMO is the VARO's final control to prevent shredding of

² *Audit of VA Regional Office Claim-Related Mail Processing*, September 30, 2009.

³ VBA Letter 20-08-63, VBA Policy on Management of Veterans' and other Governmental Paper Records, November 14, 2008.

claims-related documents. RMOs work closely with other records management staff and other agencies to protect personally identifiable information of veterans and employees from unauthorized use, disposal, and destruction. They provide records management guidance to staff, and conduct frequent sampling and spot checks to ensure compliance with station shredding policies. Additionally, the RMO is required to conduct annual training for all VARO staff relating to the maintenance, review, and appropriate destruction of veterans' paper records.

DRMO reviews are generally performed by supervisors as a collateral duty, and VBA policy provides for one DRMO for every 15-20 employees in the division. The VARO director determines the appropriate number of DRMOs at a VARO or other VBA facility to fully carry out these responsibilities.

In January 2011, VBA revised its policy to include an optional full-time position, the Records Management Technician (RMT). Each VARO could replace their DRMO position with an RMT. VBA made this change to reduce the supervisory records review and approval process to claims-related material only and provide more time for VARO supervisors to devote toward claims processing activities. Further, VBA issued each employee a red envelope and a red box. Employees were directed to use the red envelopes for claims-related documents only. Claims-related documents generally include duplicate evidence and are required to be signed by the employee and the supervisor prior to destruction. The red boxes are used for other documents, such as training materials, draft rating decisions, and internally generated papers. Some of these documents require the employee's signature before destruction, and others do not require any signatures. Employees are responsible for ensuring all items in their designated shredding containers meet the guidelines of the policy.

VBA requires staff to file, in a claims folder, essential documents with evidentiary, legal, or administrative value. VBA policy also requires staff upload all file mail to an electronic claims folder to ensure that an accurate historical record is maintained for each veteran's claims folder.

REVIEW OF ALLEGED SHREDDING OF CLAIMS-RELATED EVIDENCE AT THE VA REGIONAL OFFICE, LOS ANGELES, CALIFORNIA

In January 2015, the OIG received an anonymous allegation that staff at the Los Angeles VARO were inappropriately shredding mail related to veterans' disability compensation claims. The allegation also stated that supervisors were instructing staff to shred these documents. We conducted an unannounced inspection at the VARO in February 2015 to evaluate the merits of the allegation.

We issued an interim report on August 17, 2015, *Interim Report- Review of Alleged Shredding of Claims-Related Evidence at the VA Regional Office, Los Angeles, California*, in which we substantiated that VARO staff were not following VBA's policy on the management of veterans' and other governmental paper records. We reviewed approximately 13,800 documents to be shredded. These documents were contained in the VARO's locked final shredding disposal containers, as well as in individual

employee red shred boxes on the appeals team, the intake processing center, the mailroom, the file room, the public contact team, and the VSC Manager's office.

We found nine claims-related documents incorrectly placed in employees' individual red boxes. Records management staff stated they did not follow a set schedule for picking up documents to be shredded. Therefore, we could not determine when employees' red boxes were last emptied or how long these documents had been in their boxes. This action bypassed VBA's control that requires supervisory review of claims-related documents before shredding. Eight of the documents had the potential to affect veterans' benefits and consisted of homeless veterans' disability claims, medical evidence, VARO letters returned as undeliverable, an address change, and a veteran's request for information related to his appeal. The final claims-related document was a letter from a veteran that did not affect benefits, but should have been included in the file for historical purposes. None of the nine documents had all required signatures or initials.

We also found there was no RMO at the VARO from August 2014 until our inspection in February 2015. The RMO had been promoted to another position in August 2014, and the Assistant Director determined that it was not necessary to fill the position. VBA policy requires that an RMO continue to oversee all programs established to manage veterans' records. We found that Support Services Division (SSD) staff who took over the duties of the RMO lacked training regarding maintaining, reviewing, protecting, and appropriately destroying veterans' and other governmental paper records. The Assistant Director assumed that the former RMO had provided SSD staff with training but did not ensure this had occurred. SSD staff stated they would only complete a "cursory review" that consisted of observing the documents as they emptied red boxes into final shred bins. As a result, we concluded it was likely that this cursory review would not have identified the claims-related documents we found, and they would have likely been inappropriately destroyed. Upon our request, VARO management could not provide documentation of permission to reassign the RMO duties to other staff and deviate from the requirement of having an RMO.

The Los Angeles VARO failed to provide any documentation of shredding violation logs for the past 2 years. SSD staff only kept certificates of each shredding event carried out by the shredding contractor, as they said they were unaware of VBA's requirement to log any material that was determined inappropriate for destruction or identify staff who did not follow VBA policy. In the absence of the shredding logs, we could not determine the effectiveness of the RMO/SSD reviews over the past 2 years to prevent claims-related documents from being improperly destroyed, compared to what we found during our review. This was a missed opportunity for the VARO to identify its training needs on the management of veterans' paper records.

Due to noncompliance with VBA policy, poor controls, inadequate oversight, and lack of training, the Los Angeles VARO put veterans' claims-related documents at risk for inappropriate destruction. Because the VARO did not consistently follow VBA's controls, it was likely that staff would have inappropriately destroyed the nine

claims-related documents we found. Similar to the 2008 audit, we could not quantify or identify claims-related documents that the VARO may have shredded prior to our inspection.

We recommended the VARO Director implement a plan to ensure staff comply with VBA's policy for handling, processing and protection of claims-related documents. We also recommended the Director assess the effectiveness of training provided to staff on VBA policy and provide documentation to the OIG that corrective action had been taken on the eight cases we identified. On April 14, 2016, we issued our final report, *Review of Alleged Shredding of Claims-Related Evidence at the VA Regional Office Los Angeles, California* that contained the Los Angeles VARO Director's concurrence with our recommendations. He stated refresher training had been provided to all employees, and that a revised local Standard Operating Procedure on shredding had been instituted. In addition, he stated management would receive reports from the RMO detailing errors made in the handling of the documents and would follow up with retraining and accountability for conduct. Finally, the VARO Director stated staff had completed action on the eight cases referenced in the report. The VARO Director's comments and action were responsive to the recommendations, and we will follow up as required.

REVIEW OF CLAIMS-RELATED DOCUMENTS PENDING DESTRUCTION AT VA REGIONAL OFFICES

After determining there were claims-related documents pending inappropriate destruction at the Los Angeles VARO and assessing that the controls of the records' disposition process were not effective, we conducted unannounced inspections at 10 VAROs on July 20, 2015.⁴ We reviewed all claims-related documents pending destruction contained in the VAROs' final shred bins. We issued the results of these unannounced inspections in April 2016, *Review of Claims-Related Documents Pending Destruction at VA Regional Offices*, (April 14, 2016). We reported that VBA's controls for records disposition were not fully effective in preventing VARO staff from destroying claims-related documents. We reviewed approximately 438,000 documents awaiting destruction. The number of documents found represented the contents within shred bins between disposal cycles. The 10 VAROs, per their local policies, had planned pick-ups ranging from twice weekly to once a month. However, the shred bins contained documents that were not claims-related, such as scratch paper, envelopes, internally generated papers, draft or duplicate decisions and letters, and training materials. Once other materials were separated out, we identified 155 claims-related documents in final shred bins at 9 of 10 VAROs, and one VARO had no claims-related documents in their final shred bins. Of the 155 claims-related documents, 25 documents found at 6 VAROs were compliant with VBA policy and appropriate to shred.

The remaining 130 of 155 claims-related documents found in the shred bins did not follow VBA policy and have the signatures needed to be placed in the shred bins.

⁴ Atlanta, Georgia; Baltimore, Maryland; Chicago, Illinois; ; Houston, Texas; New Orleans, Louisiana; Oakland, California; Philadelphia, Pennsylvania; Reno, Nevada; San Juan, Puerto Rico; and St. Petersburg, Florida.

These documents bypassed VBA's internal control requiring supervisory review of all claims-related documents prior to shredding. Sixty one of these documents were appropriate to shred because they were available in veterans' electronic or paper records. However, 69 were not appropriate to shred because VARO staff had not added them to veterans' claims folders. Of those 69 documents:

- Two documents affected benefits. One document discovered at the Reno, Nevada VARO consisted of evidence supporting reimbursement of burial costs which was incorrectly denied. The other document found at the Atlanta, Georgia VARO included congressional correspondence with evidence related to removal of a former spouse which resulted in a delay in adjusting the veteran's compensation benefits and a larger overpayment.
- Nine documents had the potential to affect veterans' benefits, including medical evidence, a veteran's inquiry regarding his appeal, evidence related to a provisional rating, original personnel records, an administrative decision, and bank account information. Two of these documents also included congressional correspondence.
- Fifty-eight claims-related documents did not affect benefits but were still required to be included in the veterans' claims folders. Fifty-two of these documents consisted of congressional inquiries at the Atlanta VARO—VARO staff uploaded these documents into the veterans' electronic records after being notified by the OIG. VARO management disagreed that shredding these documents had any effect on veterans' because they had retained local copies. While we acknowledge that VARO management maintained local copies, this evidence was not part of the claims files at the time of our review. As such, no one can be assured that other VAROs, which may process future claims from these veterans, would have access to these documents.

The Acting USB stated that our findings were not indicative of a systemic issue considering the large number of documents that were reviewed. However, we disagree and reiterate that the potential effect on veterans cannot be minimized. Generally, the errors we found occurred because management did not ensure staff complied with VBA's policy for safeguarding veterans' documents. Management and staff stated VBA's policy was confusing and outdated, and did not clearly delineate signature requirements for all claims-related documents. Management did not ensure that RMOs provided annual training to all VARO staff on the proper procedures for managing veterans and other governmental paper records as required. Staff at numerous VAROs stated they could not recall when RMOs provided training. Management and staff noted training would be a helpful reminder of the proper annotation requirements.

VBA's policy was established to ensure that documents are properly identified for shredding. Records management staff are required to review claims-related documents submitted for shredding, and conduct spot-checks of non-claims-related material. However, we found that they did not consistently review documents at some of the

VAROs we inspected. For example, at one regional office, the RMO did not review any documents submitted for shredding in 2015, and management directed the RMT to review a sample of only three of the total bins each week. Furthermore, records management staff at three VAROs stated that they were assigned additional duties that inhibited their review responsibilities. Based on the insufficient records management processes we observed at these VAROs, staff did not appropriately review all claims-related documents designated for shredding.

If records management staff identify material inappropriately scheduled for destruction, they are required to report these violations to VARO directors and maintain logs for 2 years. At the 10 VAROs we reviewed, records management staff did not consistently maintain violation logs. Two VAROs did not have current violation logs because records management staff reported having no violations in the past 2 years. Five additional VAROs' logs had no recorded violations within the current year. At one VARO, records management staff did not have recent log entries because they would not record a document missing signatures as a violation, unless it was a chronic problem originating from one employee. Based on our findings of claims-related documents inappropriately placed in the shred bins, it is highly unlikely the VAROs had no violations within the last year.

We concluded claims-related documents were at risk of being inappropriately destroyed. As noted in both the 2008 audit and the February 2015 inspection, we could not quantify or identify claims-related documents that the VAROs may have shredded prior to our review.

We recommended the Acting USB ensure VARO compliance with policy, update and clarify policy and procedures, and provide training where needed. The Acting USB concurred with our recommendations, and agreed the records management policy needs to be revised to align with the current electronic document storage and centralized mail handling. VBA will also revise associated roles and responsibilities, with deliberate consideration given to compliance enforcement and oversight, and will ensure procedures are in place to track all shredding violations identified. The Acting USB also stated Phase 2 of the Records Management Accountability and Training initiative to ensure records management compliance and proper control, storage, and maintenance of mail and other benefit and claim-related documents will be scheduled. Finally, VBA is in the process of clarifying procedures for the maintenance and disposition of congressional correspondence. The Acting USB's planned corrective actions are responsive to the recommendations, and we will follow up as required.

CONCLUSION

OIG's 2008 audit and the 2015 inspections demonstrate that VBA's controls have been ineffective in safeguarding veterans' claims-related documents from potential inappropriate destruction. Our recent inspection work at 11 VAROs demonstrated that due to noncompliance with VBA policy, poor controls, inadequate oversight, a lack of training, and confusing policies, veterans' claims-related documents were at risk for inappropriate destruction.

The potential effect on veterans should not be minimized. Considering that there are 56 VAROs, and if weekly shredding is conducted, it is highly likely that claims-related documents at other VAROs are being improperly scheduled for destruction. We consider any loss of claims-related documents to be unacceptable. These actions can potentially result in loss of claims and evidence, incorrect decisions, and delays in claims processing. Further, this situation increases the distrust that veterans, their beneficiaries and families, and other stakeholders have in VA's ability to adequately protect documents and provide timely benefits.

Mr. Chairman, this concludes my statement. We would be happy to answer any questions you or members of the Subcommittee may have.