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MS. TIDWELL-PETERS: My name is Debra Tidwell-Peters, and I am the Designated Federal Officer for the Occupational Information Development Advisory Panel. Welcome to the inaugural meeting.

For the opening of the meeting yesterday, we were very fortunate to have the Commissioner and the Deputy Commissioner of Social Security. We also had Deputy Commissioner David Rust of the Office of Retirement and Disability Policy.

This morning we would like to begin by acknowledging Marianna LaCanfora. She is the Assistant Deputy Commissioner for the Office of Retirement and Disability Policy. Good morning, Mariana, and welcome.

Yesterday, the Commissioner began by talking about the strategic plan. He noted the 2.6 million new disability claims that the Agency received in 2008. He also stressed the Agency's goal to improve the quality and the speed of our disability process.

His directive that we should develop an
occupational information system, in his words, that
was thoughtful, effective, and also fast.

Associate Commissioner Richard Balkus underscored the Commissioner's task to the Panel. And that was to develop a recommendation by the end of September regarding the type of occupational information that Social Security should collect, and also to deliver your recommendation regarding a classification system for that information.

We also heard presentations on the Agency's use of administrative notice, an overview of the sequential evaluation process, and how the Agency uses the Dictionary of Occupational Titles in our disability programs, and also the challenges that we face in doing so.

This morning we're going to hear more about the use of the DOT and the disability determination services and vocational expert testimony. Also, in our administrative law proceedings, and in the appeals process.

This afternoon we are going to focus on prior efforts of the agencies to look at this issue,
our program, and legal requirements. And finally, we will turn to the road map, which is SSA's plan to develop this information and the occupational information plan.

Our first presenter this morning is John Owen. John is the Acting Deputy Director of the Division of Disability Determination Services, Operation Support.

Good morning, John.

MR. OWEN: Good morning. Good morning, everyone.

My name is John Owen. I work for Social Security now. I previously worked for a state disability determination services. And I'm going to talk a little bit about the overall SSA process with disability claims and how that leads to our need to use the Dictionary of Occupational Titles currently.

Currently, the claims intake begins at a field office or sometimes with -- when the claimant contacts a telephone service center. They're four levels of claims. There is the initial, the recon, the ALJ hearing, and the appeals council level.
Reconsiderations, ALJ and appeals council must be requested by the claimant to appeal a decision that was made earlier.

The DDS is the first step in that decision making process. If a claimant is found not to be disabled or have a less than fully favorable decision, they can appeal it to the next level, which is the hearings office; and if they're still unhappy with the decision, they can appeal it to the appeals council. If, again, they're still unhappy with the decision they can take it to a federal court.

We make the decision by reviewing the application and the information that's given out. But the first thing they do is that the technical -- not a medical decision, but actually a technical decision to see if a person qualifies. For SSDI claimants, we check to see whether the claimant worked enough years to qualify -- to be insured for disability benefits for the SSDI program. For SSI, it is really an income or needs based program.

For both SSDI and SSI, we evaluate first,
of course, at step one of the sequential evaluation any work that the claimant may be doing. Because if they are working above that, as you heard yesterday, SGA level, substantial gainful activity level, then, they would not qualify to be considered further for disability benefits.

If they are found to meet either or both of those programs technically, then, their claim moves from the field office for Social Security to a state agency generally called the disability determination services in the claimant's state, where the DDS, then, has to make the medical determination.

And as someone explained yesterday, the DDS makes the determination; at the hearings level they make decisions. I'm going to pretty much say determinations, because at the DDS that's what we really do.

The decision at the DDS is made by a team of doctors and disability specialists, and that's done by reviewing the application; and the initial application contains some information about who the
claimant has seen as a medical provider, what tests
they have had. It includes vital things like their
age, education. There is also in the initial
application brief information that's gathered
listing the names of jobs that they have had in the
last 15 years, which is the current relevant period
time that we consider for determinations generally.

Once they have reviewed the application,
they send out requests for medical evidence requests
to all those places the claimant has seen and gather
that information. And yesterday, we heard a lot
about how we use the DOT; but one thing I would like
to stress is that at the DDS a lot of our time is
not spent using or making a vocational
determination. A lot of our time is spent
developing the medical evidence and doing an
analysis of the medical evidence to determine if we
have enough evidence to make a medical decision.

The steps that precede either determining
a claimant meets or equals a listing, or whether we
have enough evidence to complete the residual
functional capacity, RFC form, or the PRT, that's
the psychiatric review technique form, which is used
preceding the completion of the mental residual
functional capacity, the MRFC form. A lot of time
is spent in those steps of development and analysis
prior to the time the adjudicator gets to doing the
medical decision -- or the vocational determination.
The majority of the time.

We have a lot of cases, and the importance
of having a tool that can be used quickly to make a
decision is paramount for us meeting the demands of
the workload that we're faced with. But once we
have enough medical information, or once we have
reviewed the medical information and gathered
everything that's available, we might determine
there is still not enough evidence. Then, we will
set up the claimant for what we call a CE. It's a
consultant examination where generally we will have
a claimant see a physician in the community or
perhaps have a test at a medical facility.

Once all that information is then
gathered, and we determine there is enough medical
evidence; then, we go on with our vocational aspect
The relationship between the state DDS and the federal DDS is that Social Security does -- they provide us the funding. DDSs are 100 percent federally funded. They provide us the guidance for the adjudication of claims. We follow their rules. We don't make up our own. And it's, of course, governed by the Regulations, all those rules.

We also have our productivity goals defined by Social Security. We are told by Social Security what our targets are, and what the performance expectations are both in processing time, productivity, and in quality measurements. And this is also spelled out in the Federal Regs.

Once a decision is made by the DDS, SSA always retains the right to reverse our decision, whether it's favorable or a denial.

Workloads. The DDS and their workloads. Currently, there are 52 state or territorial DDSs. There is DDSs in every state. Some states have multiple or decentralized DDS. Washington, D.C. and Puerto Rico have their own. There are also some
federal processing centers or units, and a couple of federal disability components in Virgin Islands and Guam.

As Commissioner Astrue indicated yesterday, we -- I think the current estimates are close to 3 million cases that will be processed in this fiscal year. The initial estimates were 2.9. The most recent adjusted are 2.9.

If you look at the slide you will see that in fiscal year '08 we realized two point nearly six million; and we cleared nearly that in clearances -- or just over that number that was realized.

As you can see, there is a large number of cases that we are facing, you know, with baby boomers getting closer to retirement age and reaching those ages where they're more than likely to have failing health and disabilities or impairments occur. It is, you know, a reality that we're faced with that there is this increasing workload.

We also have reconsiderations, which, at
the initial level, if a claimant is denied benefits they can ask -- request for a reconsideration. And in most of the states, that case then goes back to the DDS to be reviewed by another examiner or adjudicator that did not have involvement at the first level or initial level of decision, and a different medical consultant who, again, was not involved in the initial level.

They, again, develop if there is further evidence to see if any of the conditions has changed that might change the decision; and they also make their own independent decision in case there was a mistake made at the initial level.

In ten states, which are referred to sometimes as a prototype states, there is no reconsideration level. The claimant moves directly from an appeal of the initial decision, and the case goes to the hearings level. So the importance of making a decision can be very important to these individuals, because the wait for a hearing is a much longer time than a wait for a decision in the Disability Determination Services Office.
Once a claimant is found to be disabled, and are a beneficiary, the DDS also process a workload called CDRs or continuing disability reviews. This is where we do periodic review of cases to determine if a claimant remains -- or beneficiary at this point, remains disabled under the Social Security definition.

The CDR workload is required by statute, and we are suppose to perform them on a time -- time to time to determine if the claimant remains disabled. And last year we processed about 260,000 CDRs at the different DDSs. This is a budgeted workload, and it's based a lot on whether there is dollars available for that number of cases.

The medical improvement review standard is similar, if a claimant's condition has changed. If the claimant's condition hasn't changed, we just make a decision about medical improvement, whether it's related to the ability to work. And if it is -- if there is no medical improvement, we continue their benefits. If there is medical improvement, we start to look at the case in very
much the same ways that we do in an initial case. You are looking at the whole picture of the person to see if they would qualify as disabled under Social Security's definition.

And again, might get to step four or five of the decision making process, which would require us to consider their past work, transferability of skills and other work, again, using the DOT at both of -- as part of that consideration.

In processing that workload, nationally the DDSs, because they are state-run -- states determine for themselves how they're going to run their office as far as mix of staff. So at some DDSs you might see lower level of adjudicators with some higher numbers of clerical staff, with a different number of mix of maybe contracted medical consultants. That's different per state, because each state manages their own.

But nationally, the disability examiners make up about 46.3 percent of the DDS staff. Examiner trainees make up 3.7 percent. Vocational specialists make up .2 percent of the DDS staff. So
there is not very many people on staff; and in fact, some DDSs what they will have is a -- sometimes referred to as a subject matter expert, or a super subject matter expert in the area of vocational. A super SME, as sometimes they are referred to. But someone who has had some additional training, perhaps, provided by SSA at their home office or at a regional office where they specialize or get some additional training, especially in those cases which in the DDS we always consider the hardest to adjudicate at step four and five -- or really at five where you are talking about framework decisions. Those decisions where they don't just fall right into the grid nicely, which if everyone did our jobs would be much easier, but they don't. Most people fall somewhere around the lines, if you will, outside of the grid. But within the grid, because we have to make a framework decision within that grid, medical consultants make up 8.1 percent nationally. Then the remainder of the staff includes administrative clerks, and quality review,
MR. HARDY: Sorry to interrupt. I had a quick question. On the vocational specialist, is there an education or training or certification requirement for those who work at this level?

MR. OWEN: There is not a certification, no; but there is training. SSA provides training annually to -- I'm not sure of the exact number. We can probably get that number if needed. I think it's the Office of Disability Policy that provides the training. It's in-house training, just like much of the training of the disability examiners.

Does that answer your question for now?

MR. HARDY: Yes.

MR. OWEN: I think we will take that as an action item and try to find out what length of training that is, and how many people receive the training annually. I don't have that information with me.

One of the problems that DDS also faces is attrition. Historically, the attrition rate runs
between 10 percent and 11.5 percent annually. That's a large amount of knowledge walking out the
door every year. It varies greatly state by state. It's based on lots of factors that everyone faces.
You know, the economy in a state might effect whether, you know, people move.

I worked in the state of Alaska. During the oil years, I can tell you that we had people who
got to go work on the slope, because they could make a lot more money in the service industries. It just varies for lots of different reasons. It is fairly high at 10 to 11 and a half percent a year.

Over the past two years, the disability attrition rate has actually averaged 13 percent nationally. So it's actually gone up. It's even more of a hardship when examiners with vocational training retire early as a DDS. One of the things that happens with those individuals that do get the training is they really do become subject matter experts, because so many individuals that have complex -- examiners that are faced with complex cases with vocational issues seek out the assistance
of a vocational specialist.

So through trial and error in some ways, and spending lots of time in tools, such as the Dictionary of Occupational Titles, you know, they can make more -- help make more consistent decisions throughout the Agency and with the adjudicators.

Also, they become much quicker at using the Dictionary of Occupational Titles, because they become more familiar with the 12,000 or so jobs listed there.

The experience or the education level of the examiner varies from state to state. I believe in most states, although, I think there is one -- I know of one that this is not true -- but generally you have to have a four year degree to become an adjudicator, just to apply for that position. On average it takes an additional two years of training, mentoring in case experience before an examiner would be considered fully trained.

To say -- until you have handled about 2,000 cases, you really aren't a fully trained examiner. That depends on, you know, the type of
training that you have, which also can vary state to state. There is a -- program manuals that are published by Social Security that are available for all states to use in the training process, which are very good. And most examiners have that training. But in addition to that, it's really getting in and doing the case work, and working with the medical consultant on staff and your mentors that help you gain the experience and knowledge to understand the process fully, and to be able to assist in writing residual functional capacity forms, and medical residual functional capacity forms; the RFC and the

In some states, there is a pilot program called the single decision maker case, where adjudicators with enough experience and training are allowed to make decisions on their own. They can make both physical and mental denials and allow -- both denials and allowances on physical cases. Although, if there is a mental impairment involved, they are not able to make a less than fully favorable decision without the use of a medical
consultant; and they're not allowed to sign off on childhood cases at all.

Mr. Woods.

MR. WOODS: Just out of curiosity -- you may have said this. I may have missed it -- are the examiners, while they are funded by the federal government, are they state employees or federal employees?

MR. OWEN: They're state employees. Everyone within the Disability Determination Services works for the state in which they reside. Some individuals on staff might be contractors, but if so, they are contractors with the state; such as medical consultant are usually state contractors.

MR. WOODS: I ask the question just in the context of the attrition rate, just curious. Thank you.

MR. OWEN: You are welcome.

Sure, Mr. Hardy.

MR. HARDY: I am waking up today. I recognize the examiner case loads are based on experience and vary. But what would an average case
load be for an examiner? Do you have that statistic by any chance?

MR. OWEN: I don't have the national average. And I want to preface any answer that I say with case load sizes vary based on receipts. We cannot control receipts.

If two people walk into a field office and want to apply for disability benefits today, we're going to take those claims. If 200,000 people walk into the field office today and want to file a disability claim, we're going to take their claims. We serve everyone.

So receipts, the number of receipts largely can determine the number of case loads that an adjudicator receives. It's based on the number of staff that you have available to receive those cases or to work those cases, and the number of receipts that you receive.

You will see the last bullet on this slide indicates that an adjudicator, a top tier examiner -- and it's based -- a top tier examiner can have between 9.8 and 20 new cases a week. That
varies a lot by that make up of personnel within an
office.

For instance, one state that I visited has
a very high number of clerical staff. I think they
have -- for each adjudicator they have two other
staff in the DDS. In the DDS that I worked, the
number was more like for every three adjudicators
you had one support staff.

So I mean, depending on how the state has
decided that they will split their FTEs, as they are
called -- their full time employees -- the make up
can be different. Depending on that division, that
largely affects why one state might have examiners
with 9, 8 and some examiners may have 20 cases. I
would presume that the DDSs where someone has 20
cases, in part, might be based on they have lots of
clerical support. Where -- a state where they have
a lower number might have less support.

Also -- that can also be dependent on
receipts in the state. You know, the economy
sometimes affects whether people apply for
disability. And so -- because states manage their
own citizens's applications for disability, you
might have a state that realizes much higher
receipts than another state. That can also play
into it.

But the average case load, I would
guesstimate, based on the experience that I have, is
somewhere between 70 and 200. It varies greatly. I
can tell you at the DDS that I was in, there were
times where a good examiner could have as low as 60
cases; and in that same DDS, that same examiner
could have 150 cases. And it really is based on
receipt.

Without the change in -- I mean, in the
same DDS -- and it really has to do with program
changes that might have required a little bit of a
slow down in work process; it might be affected by
the number of adjudicators and the attrition rate
with fully experienced adjudicators leaving, a bunch
of trainees coming in. Trainees don't generally get
a large number of cases, so the number can fluctuate
greatly, even within one DDS. To say an average
number, it would change tomorrow.
MR. HARDY: I want to make sure I understand correctly. The examiners are going to be completing the RFC form at some point?

MR. OWEN: Only in some states.

MR. HARDY: If it is an allowance, is that right?

MR. OWEN: There is what's called the single decision makers, where examiners, if they have enough experience, and their state is participating in the SDM, single decision maker process, the examiner, if there is no mental impairment involved in the case, nor alleged or seen in the medical record -- and it's not a childhood case; we are talking about an adult case -- the disability examiner may complete the entire case without a medical consultant being involved, in which case they would complete the RFC.

MR. HARDY: Can you tell me -- I know you said earlier there was some training for vocational issues. What kind of training is there in medical issues for examiners? And I will stop bugging you.

MR. OWEN: You are not bugging me.
There is an initial disability examiner or adjudicator training module that -- I don't know that it is used in every state. Some states may have developed their own training modules, but I know it's available for use. And all the states that I have worked with I know has used these modules. In addition to those modules, there are different types of training that might be given depending on the state.

I came from a small state and we worked with new trainees. First, we would have them go through the modules. Then we worked with them in developing cases, in making the decision, medical and vocational at every step. And nothing that they did was not reviewed. Because we had such a small staff, we didn't have training classes, because you couldn't support, you know, a large training class when you are only hiring one new adjudicator.

But in some states -- larger states with larger DDSs, it's a much more formalized training setting. And there are -- you know, it's a certain number of months that they actually spend in the
training room. And then slowly they might be
brought out into real case work, spending part of
the day in training, part of the day at their work
station processing claims, which, again, are --
those cases are reviewed by the supervisor. Quality
checks are performed throughout the process until
they have enough experience and demonstrate that
they have the knowledge, skills, and ability to work
more independently. Okay.

As I said, the case loads do consider the
experience of the individual. The newer the person
is, the smaller their case load usually is. The
more experienced the adjudicator becomes, the more
likely they are to get the highest level of intake;
and therefore, generally, they carry and move the
highest number of cases through.

I explained that recently we have
experienced a 13 percent attrition rate. That talks
about how much experience is walking out the door.
The next slide demonstrates the national level of
experience for disability examiners. You can see
that most examiners have over ten years of
experience -- or over five years of experience, over
half do. Some have over 20. Another 15 percent, 10
to 20 years of experience.

So when you lose, especially, you know,
the people on the right side of this slide, people
with 10 and 20 years of experience, that 10 or
13 percent of attrition can be a lot of experience
walking out the door.

DR. WILSON: Have you looked at attrition
by these various categories? I am thinking maybe
it's the two end ones where you are getting the
most.

MR. OWEN: Again, I think it varies by
state, Mr. Wilson. I think that presumption can be
made; but I don't have the information about whether
the experience really is representative of people
who have been there over 10 and 20 years. We can
take that as an action item if you would like to
find out if the attrition is representative mostly
of people with over ten years of experience or not.

DR. WILSON: I was thinking, actually,
that it would be that last category due to

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retirement. The first one due to, this is not my
kind of work. I don't like this. Once you got them
pass the year or so point, then, they're going to
go. It is these three middle.

MR. OWEN: We will look at that.

I think, Mr. Hardy, you had another
question?

MR. HARDY: This is actually more for you,
perhaps, Sylvia. If the DDSs are working on the RFC
forms, which is DOT based, and they're completing
them; and we're talking about a new OIS kind of
system, training for the DDS is going to be
important, correct?

MS. KARMAN: Extremely important.

MR. HARDY: Is that in your road plan --
road map? Is that in the road map? Is that part of
down the road kind of consideration?

MS. KARMAN: Yes, it is. We're going to
talk a little bit about our overall plans for the
project this afternoon. And one of -- one aspect of
that in our -- in Social Security's overall project
involves implementation. And you know, at that
point, we would be looking at policy development has already occurred, and there has been work done within the Agency among several components to, you know, make sure policy is in place, make sure people have been trained; and also to deliver that information, you know, outside the Agency, so that individuals who are representing claimants, vocational experts understand what our new policy or the new information is. So yes, absolutely.

MR. HARDY: If each state is working independently and a little bit differently in how they do their training and staffing, would that be a problem for the roll out, do you think; or is that something we have to look at as we get closer?

MS. KARMAN: Well, I think, certainly, the Panel will be considering the extent to which making whatever the Panel is recommending operationally feasible. I mean, that's certainly going to be a major feature in what we're going to examine. And Social Security will be in a position, then, to take that recommendation and work with that, so that we can make sure we're doing that.
MR. OWEN: And just so that I am clear, even though the approach for training may be different in all states, the core material that is being taught in every state is the same. So the approach may be different based on staffing levels, but the core information is the same. And SSA, in all fairness, does roll out regulation changes, new business process changes, which have to be learned and implemented in all DDSs; and they so far have done that pretty successfully.

I think what's important, and I'm speaking from a DDS experience to say this, is that whatever you come up with is -- is implementable and easy to use. I mean, the last bullet on the last slide says, it needs to be user friendly. I guess I'm going to jump to say that, because it needs to be heard. It's very important.

The number of cases that an adjudicator is tasked with processing -- I mean, if you think 20 cases a week for an experienced adjudicator, that's four cases a day. Four cases a day where they have to read the adult disability or childhood
application. They have to synthesize the information to determine what evidence might be out there based on what they're being told that they need to go out and request. They need to send out those requests. They sometimes need to call the claimant for additional -- or the applicant for additional information that's not clear in the initial information provided.

They need to read their information that they're getting in the mail with the medical evidence. They need to determine whether or not there is enough evidence based on the first piece of evidence that they get back to make a medical decision. Because we also want to make a favorable decision at the first -- at the earliest time that we can.

So as each piece of evidence comes in, we generally are tasked with trying to read that as soon as possible in order in case this is someone who has a clear disability meeting the disability requirements -- a clear impairment that meets those requirements -- that we allow them benefits as soon
as possible.

So you are constantly reading evidence, synthesizing it, making annotations in worksheets. You might be starting RFCs or MRFCs only to realize, you know what, I can't answer this part of it, because the information I have is insufficient for me to answer this. So now I might need to set up a consultant examination, get the claimant's cooperation.

Depending on what state you live in, help arrange getting the claimant for *Areo, Alaska to Anchorage for a consultant examination. All of these tasks are all involved in the day of an adjudicator, all working towards making the decision sometimes in four cases a day. The time that they have to spend, which includes also reviewing the claimant's work history, and whether we have enough information regarding their past work to make a decision at step four and five if that becomes necessary; and if not, sending out the adult work history report to gather the complete 15 year work history, and all the details of all the jobs over
the 15 year relevant period.

Then, if that's not enough or the claimant doesn't explain it very well, and you can't identify what the job is in the Dictionary of Occupational Titles, then you have to pick up the telephone and call the claimant; and hopefully, the claimant is available to answer the call. If not, you have to send a call-in letter. I mean, it's a very long process. Sometimes a tedious, but labor intensive process in regard to time.

And while still trying to process the number of cases and getting out each week the number of cases that you are getting in. Because if you don't get out the number of cases that you get in each week, your case load only swells, and you are left with -- you have more pressure and feeling of less time in order to make those decisions. So the tool that we need to make the vocational decision needs to be user friendly.

The Dictionary of Occupational Titles everyone understands is outdated. You know, it's been outdated for a long time. And it's not --
yesterday, I think there was a question, maybe it
was from Mr. Wilson about the percentage of jobs
that we can find in the DOT.
    I just want to say something about that
also. I can't tell you the percentage of jobs that
are actually in the DOT that we see that exist, but
what I can tell you what's almost more confusing
sometimes for adjudicators is not the jobs that are
no longer listed in the DOT; but the jobs that are
listed in the DOT but they're no longer performed in
that way that they're described in the DOT.
    I have an example of one case -- actually,
it must be back there. But everyone flies, right?
A lot of you probably had to fly to get here. When
you went to the airport and you went through your
little security check; they looked at your ticket;
they passed you through to go through the screening
check point.
    Many, many years ago I used to manage what
we called screeners. Those were the individuals
that used to run the x-ray machines that would look
through -- look at your bags as you walked through.
The DOT describes that job as an SVP of two. A specific vocational preparedness of two. That is what we consider unskilled work.

That job now, there is computers involved. The level of communication between the individual operating the machine and the traveler going through that point, every part of that job is now different. It is no where close to being unskilled anymore. I mean, even the pay scale is different and reflects that it's no longer an unskilled job.

That's sometimes more of the difficulty we face with the Dictionary of Occupational Titles where you find a job where the title is still the same; and if you read the task described in Dictionary of Occupational about this job, it still describes very much some of the essential functions of that job. But the tools that are used and some of the things -- the SVP is wrong.

So if you try to make a decision based on using the DOT when so many parts of it still look the same, we end up being in a position where we may not be making correct decisions about
transferability of skills, or other things. So it's essential that what we do have, though, is usable.

DR. WILSON: I appreciate that a lot, John. I think that's an important point. There are often times a job title can be extremely misleading; and it is not a particularly useful bit of information that can actually lead you down the wrong road.

I also want to make sure when you said that a top tier examiner would be expected to receive 9.8 to 20 cases per week, would they also be expected to clear that many or more?

MR. OWEN: Yes.

DR. WILSON: For any one week --

MR. OWEN: Yes. It is not, okay, you are getting in 20 cases this week, so therefore, you need to close 20. The performance standards are usually based not on receipts, but the number of clearances that an adjudicator clears. However, from the position of an adjudicator, as you see cases coming in, if you want to be able to manage your case load, you know that you have to kind of
And in some cases, the receipts are so large that they sometimes have to -- in the past have put some cases basically on hold and not assign them -- put them in a cue ready to assign. But it is not the business that Social Security wants to be in, putting people in cues. But there is some ways to manage the case load.

Also, right now we benefit, because there are actually some federal disability units around the country that have been very good as of late in helping states with high number of receipts process cases, which have been successful in preventing cases from being put into cues.

Mr. Hardy, hold on one second. Ms. Shor.

MS. SHOR: Yes. Thank you. I wanted to go back to the DOT for a second and try to think about your characteristic of needing a tool that's user friendly. If the DOT weren't obsolete, would you have other complaints about it? Or do you find it overall a good resource -- the fact that it's
obsolete or partially obsolete is the number one problem?

MR. OWEN: That's not the number one problem. We're used to using the tool, and if it were reliable information in what it does have, it would be more useful, certainly; and it would cut down research time to identify that you are searching for the first -- the correct job.

But clearly, I think that everyone would agree that its deficit -- its largest deficit is it gives you little or no guidance when it comes to cognitive limitation for mental limitations. That is a huge hole that we work around in sometimes very creative ways to try to make the right decision.

For instance, I mean, my favorite -- and this is not necessarily -- I mean, this is not SSA policy; but I can tell you from an individual user point of view that using the DOT could sometimes be helpful kind of in a backwards way.

If you had a mental RFC where the individual was -- in the narrative it indicated that the person might have some trouble being challenged
by the public in a job, and would do better with
superficial contact with the public. You know,
there is not a way to really find that job in the
DOT.

However, we found ways to kind of cut down
some jobs that might actually fit into that idea
that we could look at to cite as occupations that
might fit their mental residual functioning
capacity. One thing I might have done was to use
the Denver Dictionary of Occupational Titles
software program and looked for jobs that required
no speaking and no hearing.

Because I can assume that there are
occupations that don't require any hearing and any
speaking, then the contact with other individuals
would be at most superficial; and therefore, might
meet, you know, the requirements to be cited for
individuals -- or occupations for individuals that
needed superficial contact with the general public.
But that was a huge work around to try to use the
tools at hand to identify jobs that might be -- or
occupations that might be good for this claimant
with their set of limitations. But it's a big hole.

I will take Ms. Lechner, and then

Mr. Hardy.

MS. LECHNER: If you come across these
limitations in the DOT, and let's say that -- going
back to the example that you gave earlier where the
luggage screener, as it's described in the DOT, is
no longer performed in that way, has a totally
different SVP skill level. Is there a way in your
current system to document those changes or to
communicate those updates, if you will, that you
uncover as an examiner or a vocational specialist
within the DDS?

Is there a way to communicate those
things? Or for example, if you found this work
around for the person that needs a limited contact
with the public, is there a way to communicate that
work around to the rest of the DDSs?

MR. OWEN: Currently, I'm not aware of any
such method of communication. I mean, ideally if
you could go in and change the DOT and update it, it
would be great, but we can't do that. Because we
really do -- in many ways the DDSs manage their
workloads independently, because there is really not
a pipeline of where you would send those kind of --
I mean, we know that the job is outdated.

What the vocational specialists at that
DDS might do is they might have gotten the job
description for a TSA worker and keep that in a
binder in their office, so that when somebody else
had this job come up -- and they might communicate
that within their DDS; but I don't know. I'm not
aware of anyway to like notify other DDSs of that
kind of change.

MS. LECHNER: So that's all the
experiential knowledge that goes with the becoming
an experienced examiner; and that's what walks out
the door when that person leaves?

MR. OWEN: That's correct. It is not just
understanding job descriptions. It is also a lot of
times knowing that -- what to do with those jobs
that fall outside of a frame -- or a grid in our
framework decision.

Yesterday, Tom Johns described that a

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person who was limited to occasional stooping, but
had an exertional limitation of medium would be
generally viewed as a light -- we would generally,
then, use a light rule as a framework for our
decision. And that's based really on knowing that
if you went into the Dictionary of Occupational
Titles, and you looked up all the jobs that were
sedentary, light, or medium that required no more
than occasional stooping, that a certain number of
those occupations would be eroded down to what we
would probably consider was a significant erosion of
a number of occupations that are represented in the
table three, medium rules. Therefore, we would use
the lower rule as part of our decision. That's
actually an easy rule that most people know and have
assimilated into their work practice.

What's more difficult are the -- another
kind of limitation that he referred to yesterday
when he was talking about reaching, you know,
whether reaching is at the table level or whether
it's overhead, or whether it's, you know, below;
whether it's one arm or if it's a bilateral
limitation. A lot of those -- how to deal with
those, a claimant with a medium RFC with one arm
limited to occasional reaching. How do we
programmatically deal with that? A lot of that
rests with the vocational specialists in the DDS.

It rests, in part, on their experience
that might have been formed by quality review
returns from their disability quality branch. They
might have tried to allow somebody who had a certain
limitation, but it was sent back from the quality
branch, because they determined that it was not a
significant erosion of a work space. And that it
didn't really meet the standards. And they might
have rebutted that. And then, once they rebutted
it, it came back as still the disability quality
branch.

And they might have gone all the way up to
the chain of rebutting their decision, thinking it
was the right decision for the claimant to allow
them; and in the end, Social Security defined that,
no, in this particular case, on a case by case
basis, this individual did not meet the framework
that you thought that they might.

That, in many ways, frames what the vocational specialists -- how they review a case. How they train -- excuse me -- their examiners to review a case, et cetera. And it goes to form. But when a vocational specialist leaves the Agency, it is a hole, especially if you have, you know, one primary vocational specialist in a small DDS and that person leaves, it can be a big hole.

Mr. Hardy, sorry.

MR. HARDY: I don't mean to be peppering you with questions, but I see DDS as like the front line in a lot of ways. To me, it is of paramount importance that what we do is really, really useful to you guys. That's why I am very curious about how the nitty gritty works for you.

If I am correct, DDS does not do the MRFC, right?

MR. OWEN: That's not correctly complete.

MR. HARDY: Okay. Could you explain?

MR. OWEN: Single decision maker states.

States who have the authority to use single decision
makers can make fully favorable decisions even in mental cases if they're adult and it's a fully favorable decision. What I mean when I say fully favorable for those that might not be completely familiar with the program is if a claimant alleges a disability on a certain date, or they technically are eligible beginning a certain date, say, January 1st of 1997. And a DDS is processing their claim and determines, well, yeah, they say they were disabled from January 1st of 2007. They stopped -- they weren't working. They technically met that requirement to be eligible; but their medical evidence shows that their impairment didn't really progressively get worse to the point where they met the standard for disability until, say, June 1st of 2007.

So we might do a change of onset allowing benefits to the later date. That's not a fully favorable decision. A fully favorable decision is when you allow -- or that you find disability back to the date that they were first technically eligible and alleged to be disabled.
MR. HARDY: Okay. It sounds to me like you guys are doing TSAs, right?

MR. OWEN: TSA, I'm sorry?

MR. HARDY: A transferable skills analysis?

MR. OWEN: Yes, I am sorry.

MR. HARDY: I am trying to do the acronyms like everybody else.

MR. OWEN: In DDS we don't use that acronym.

MR. HARDY: Okay.

MR. OWEN: That might be an SSA policy thing.

MR. HARDY: I am doing my best here. Sounds like you guys are doing transferable skills analysis at the DDS level.

MR. OWEN: Yes, we do.

MR. HARDY: Okay. Again, I think this is road map -- I'm trying to think as far ahead as I can, as we are going along here. If you are doing TSAs, and we all know there is all sorts of softwares out there. Are the states all using
different softwares for doing TSA?

MR. OWEN: I don't know about all states, so I can't say. I believe that different -- you know, we've gone through a series of different software programs that have been available. There is the Denver Dictionary of Occupational Titles; there was O*Net; there is OccuBrowse. And a lot of those we use as tools to help inform our decision. I don't think that we have ever -- even in the DDS that I was in, we never stuck with just using one tool. We tried to use every tool that we had in hand and transferable skills is a very difficult thing to determine, especially knowing that a lot of tools that we have might be outdated.

MR. HARDY: Under the system that we're developing, you are going to want to continue to be doing the TSAs at the DDS level, correct?

MR. OWEN: Correct.

MS. KARMAN: Right. We have a number of different software programs that are available to the adjudicators online through SSA's intranet; and, you know, we send -- Social Security headquarters
provide the adjudicators across the nation with
instruction, procedures, and policy as to how they
are to use the several different software programs
that are out there, which basically serve Dictionary
of Occupational Titles information in a way that the
adjudicator can use, using our policy.

So what we say to them is, here is -- here
are these different software programs, the three or
four that are available online; and, you know, you
can use them this way, that way; but we explain to
them exactly how they are to do the transferable
skills analysis, for example.

So they must use the same policy and apply
that policy consistently across the Board; but
whether they use one software program or another one
is really -- that's irrelevant. So I mean, that
shouldn't -- that doesn't really -- that doesn't
have a feature as an issue, because we want to
provide them with a number of different tools to do
that. And some people like one type of software
program better than another one.

But I mean, ultimately they all end up --
if you are doing TSA, they end up with a list of the occupations that might be relevant. And then you, the examiner, the disability examiner in the DDS has to actually sit there and then go through this list and say, okay, well, given what I know about our policy in Social Security, which of these jobs are things that I could possibly recommend or cite as, you know, with -- to support the decision or the determination that I'm about to make? So --

MR. OWEN: One thing that you can't do -- one thing that we don't do is we don't just use a single program to look for, you know, jobs with the same GOE code to go, okay, here are nine jobs, because as Tom Johns also referred to yesterday, there are other considerations that come into play such as a claimant's age. If a claimant is 50, the transferability of skills may not have to be as directly related as, you know, to a 60 year old who you would expect if you are willing to say has transferable skills, that they be very directly related and practically they could walk in and should be able to understand all the nuances of the
job based on their previous work in order to site
that as transferable skills.

So no matter which program or set of
programs that you use in order to identify jobs,
which might have -- or might be cited as having
transferable skills too, you still have to do an
analysis to make sure that they still seem like
relevant jobs; and that the task that the claimant
described doing in their past work, and the tools
used seem to coincide with the jobs that you are
citing.

MR. HARDY: I think what I am trying to
get in my mind is if the OIS that we're developing,
if the end user, the first user is going to be DDS
person somewhere in Anchorage or in Alabama, and
it's got to be -- if we're looking at trying to get
parameters and get to a taxonomy that's going to be
workable, it's going to have to be one that is going
to start at that level. I am just trying to get
just kind of an understanding of what is happening
now, and what kind of training there is, and where
it goes from there.
MR. OWEN: Well, it would be great if you could create this tool that we could consistently rely on and use to determine what occupations have transferable skills to other occupations. So that even if -- I mean, even if the adjudicator continues to have to take their program knowledge and policy understanding to determine which of those jobs on that list meet the program requirement if the OIS project could create software that told you, okay, these generally are the occupations that have transferable skills from this occupation that you are citing as their past work. That would be greatly helpful in -- and representative of a number of jobs that exist in the national economy. That would be greatly helpful to the adjudicator or examiner in determining whether the claimant has transferable skills or not.

Mr. Hardy, go ahead.

MR. HARDY: One more, and I swear I will shut up.

I guess this is a policy thing. You are saying that the decision at the DDS level is only
when it's fully favorable. If we moved ahead with what we're talking about, would there be a change in policy for --

MR. OWEN: No, I think the fully favorable is you asked whether or not an adjudicator might fill out the mental residual --

MR. HARDY: Okay.

MR. OWEN: -- independently without a medical -- a medical consultant's signature. DDSs make complete denial, less than fully favorable. They make every decision at the -- or determination at the DDS level.

MR. HARDY: They only use the RFC forms if they're fully favorable?

MR. OWEN: No, RFC forms -- I'm sorry. I didn't mean to confuse you. There is what's called the single decision maker states. In the single decision maker states, the adjudicator is allowed to make certain decisions independently. Completely independently. What is excluded from that is if there is a mental impairment involved and it is less than fully favorable, or if it's a childhood claim.
Outside of those SDM states,

adjudicators -- outside of the SDM states, the

adjudicator may help complete any of those forms,

but a medical consultant's signature is required on

all of the forms. So in the medical decision,

determining the limitations, a physician may or may

not be involved.

It's the adjudicator, then, though, who is

tasked with taking the information about the

limitations at steps four and five, and determining

whether or not, with this set of limitations,

whether the claimant can do the past work as they

performed it, whether they could do the past work as

it is generally performed in the national economy.

Whether the claimant has -- and if not,

whether the claimant has transferable skills; and if

not, whether there are other occupations that exist

in significant numbers so that the claimant can be

found disabled or not disabled using the grid to

make that decision sometimes as a framework.

Ms. Lechner.

MS. LECHNER: Let's fast forward and say
that, you know, at some point in the future we have an updated DOT. If the DDSs were provided with the technology and the personnel, do you see the DDS -- could you see the DDSs having a role in maintaining an updated DOT?

MR. OWEN: Well, I think that if you think about your earlier question about when a job is identified as having changed significantly; and if the DDS were to recognize that, do they have a place to share that information or communicate that, so that it might update something? Right now, we don't have that.

But that model or that question suggests, perhaps, a model to where we might be able to say, okay, we have seen this job repeatedly. It looks like it's consistent, not just with this claimant that describes being a secretary, but happy to carry boxes down on the dock; but this consistent job description from several individuals, I would say that I wouldn't want the adjudicator to be responsible for updating something, communicating that, and then maybe having it go to some sort of a
vocational expert and not a specialist. Someone who
is really trained and understanding and reviewing
to, then, update. Because if you are talking about
an application that all DDSs are using, you would
want to have pretty specific controls so that
changes didn't get made nilly willie that resulted
in bad decision making across the U.S.

MS. LECHNER: Sort of what I -- kind of
bouncing around in my head is that if there were an
electronic system for documentation, and there were
specifically trained individuals at the DDS who
could either, based on job descriptions they have
received, perhaps, and some on site job analysis go
out and update the information. Just because that
initial work that might be done really needs to be
kept current. Things in our world change very
quickly.

It seems as, though, you all deal with
this data on a day-to-day basis. You have a lot of
rich information that we should tap into as we move
forward, and as a system is developed, then, if it
were linked in some way, you know, again, given the
correct resources. Not trying to overload an
already overloaded system; but given the correct
resources and personnel and technology, that you all
can play a vital role in maintaining a really, you
know, good solid database.

MR. OWEN: I think that would be as good
as the individuals who are identified to update it.
But clearly, what we would love to have is something
that was updated.

Currently, you know, whether you’re --
when you are working in a case processing system in
the DDS, SSA has provided these links that right in
that software application you can launch the
Dictionary of Occupational Titles. If it were to
launch this new DOT that was, you know, housed at
SSA or wherever, and it automatically updates the
information is exactly what we would like; because
it would lead to correct decision making, we would
hope.

Now, who manages the changes, whether that
really should be in the DDS or not is something that
would have to be decided.
Mr. Woods.

MR. WOODS: I think the latter point is a very important one. It would seem to me at a minimum, that we could, at least, put -- as we think about the system design is taking advantage of that expertise that's out there. It may not be to the point of actually doing the updates, but even if it were at the level of kind of a radar scanning or a sensing system that we see that this particular -- these particular kinds of occupations are the ones that seem to be raising some issues.

It seems trivial, but that can be terribly important, so if there were a system that at least captured that. So that -- the example you gave, for example, screeners, and we see that popping up all over. However the system does the updates that may be a way to inform the system that this is one that we have got to target in and flag, sort of may be able to set some priorities in terms of future updates.

Also, just as an aside, initially when I thought 13 percent attrition rate, I was thinking,
my gosh, what is the system doing wrong that so many people are leaving. After you went through the process, now I am wondering why it's as low as 13 percent.

MR. OWEN: Okay. I'm going to get back to the slides.

The examiner qualifications. I mean, part of the idea of having examiners update a national system, you know, the qualifications at every DDS are somewhat different. You have to have in depth knowledge of medical conditions, vocational factors, medical terminology, and SSA policy. You don't necessarily walk in with any of that information, it is usually taught on the job.

What you do usually have to come in with is the ability to analyze and review diverse and complex issues, which turns out to be claims in this form of work. Skill in preparing written analysis of medical and vocational information to make it legally defensable is also important.

If you think about the time that that might take in conjunction with having -- or
processing four claims in a day, the ability to use a tool and to refer to a tool, maybe printout something from the tool to show you how you got to where you went might be extremely helpful.

The DOT is the primary tool used by adjudication at the DDS despite the fact that it is outdated. We use it to identify the claimant's past work, so we know how it's performed generally in the national economy. We use it to determine whether there is going to be transferability of skills; and then, whether or not, out of those 12,000 jobs, there is a significant number of occupations that we can cite that the claimant should still be able to perform with whatever combination of limitations, mental and physical that they have, despite the fact that there is a huge hole in the Dictionary of Occupational Titles when it comes to considering mental impairments or cognitive impairments with regard to occupations. Obviously, it's crucial to work that we do.

Then, we also, of course, as Tom Johns said yesterday, we rely a lot on the SVP rating on
those occupations in determining, first of all, whether we can even consider whether there is transferable skills, because if it has an SVP of one or two, we say it is unskilled work. Therefore, you cannot have skills transfer from unskilled work. Therefore, we are also reliant very much on the SVP level or rating in the DOT.

This is the last slide, as you can see.

User friendly is the last thing, but it's also the first thing. The DDS perspective. We have lots of challenges, which includes the increasing workload that we are facing. Our attrition rate and having to make vocational determinations with a tool that's outdated. It's antiquated information and doesn't really reflect the current job market, or many of the occupations have changed since they were described in the Dictionary of Occupational Titles. The mental, of course, is one of the big things. I will say it again, because it's so important, that we just don't have a tool that really helps us in an efficient way.

The DDS needs a tool that reflects the
demand of work related to areas of physical and
mental cognitive functions most frequently affected
by the types of impairments that we assess; and then
it is updated on an ongoing basis that it's always
current and user friendly. We need it and we need
it soon. We have been saying that for a long time.
I am so glad to see this Panel of very impressive
individuals here and working on it, because it's --
I mean, you struggle.

I think we struggle a little bit with
medical decisions and determining what is a
reasonable limitation to assess on a RFC sometimes.
But you know, you have this whole longitudinal
history of medical evidence of what the claimant
describes in their activities of daily living that
they can function. So you have all these pieces
that they can pull together to understand what a
person's limitation might be, and whether they are
reasonable and supported in this medical evidence;
but in vocational, we are really left behind and
without key pieces of information, like a tool
that's updated. So it's very important.
Dr. Schretlen.

DR. SCHRETLEN: Schretlen.

MR. OWEN: Schretlen. Sorry.

DR. SCHRETLEN: This has been an enormously helpful overview. One of the things that I have found most helpful is your response to Nancy's question earlier. Because I came in -- I will revisit that. Because I came in with the notion that one of the fundamental problems is that the work force -- you know, the world of occupations has changed so much that they are no longer captured adequately by the DOT.

What you said was that, in fact, one of the most vexing problems for examiners is that the descriptions are no longer applied. Not that there are so many jobs in the workforce that are no longer included in the DOT, but that the descriptions are out of sync with the reality of job demands. That was an illuminating response for me.

I think that it would be very helpful -- you gave the example -- the concrete example of a screener. And it would be helpful to me as a
panelist to hear more about those kind of examples, the range of examples of -- concrete examples in which the DOT descriptions are not working, so that I have a better -- a better kind of visceral sense of where it fails and how it fails.

I mean, I understand these -- the sort of summary statements, but the concrete examples are enormously helpful for me.

MR. OWEN: That's not to say that there aren't lots of occupations, especially technologically advanced occupations, that are described in the DOT, because there are lots that are not. I don't mean to overstate the fact that there are some that are there that have descriptions that just don't match what the current position is; however, there is -- I mean, there is both. That's really my point.

Ms. Lechner.

MS. LECHNER: You know, when I think about the DOT as it's used today, and some of the limitations, I think, you know, you hit on the fact that there are new occupations that aren't included
in it. We have also all talked about occupations in it that no longer exist. We have talked about the fact that there are in some -- for some occupations, it's broken down into too much detail. We have talked about descriptions that are there that aren't accurate.

So I think we're talking about data on four or five different levels that we need to address; and that's something that we all, as a group, kind of need to clearly outline and keep into perspective of these are the different types of deficits in the data. We have also talked about in the cognitive area there aren't adequate descriptors. In the physical area there are still places, for example, climbing, reaching, those kind of things that need to be broken down in a little more detail.

So I think as we work together as a group, we kind of need to sit down with our laundry list of here are the deficits, and here are the things that we're going to do to address each of the deficits.

MR. OWEN: And I think to assist that, I
think Sylvia Karman and the workgroup have been
trying to come up with a list of, you know,
categories that are not well-defined on the current
forms, or broken down in a useful way within the
current DOT that you might look at and consider when
coming up with the perfect application. I think she
has already started that.

MS. LECHNER: Right.

MR. OWEN: Mr. Wilson.

DR. WILSON: I agree that this has been
extremely helpful, and again, the layers of
complexity here are pretty daunting sometimes. One
of the questions I have is -- and I know that,
depending upon the state, the actual process could
vary a little bit, the sort of single decision maker
versus multiple.

Have you given any thought to -- is the
adjudicator a series of task pretty much fixed?
Could there be redesign attempts? You know, maybe
some aspects of what's currently done to be
centralized, or you know, those sorts of --

MR. OWEN: I don't think that currently
they're any plans to centralize this portion of the work. I mean, there are certain advantages to, perhaps, moving toward a common case processing system that might allow work to shift more easily from one state to another; but currently, the DDSs use their own case processing systems in their own state. So transferring one case to another state is not very easy. It's becoming easier with our move to the electronic disability folder.

DR. WILSON: Right.

MR. OWEN: And there is actually some consideration being given to developing a common case processing system within the DDSs that might facilitate that.

DR. WILSON: Exactly. I was just trying to get an idea of what our options may be in terms of -- because you are right, there is different levels of cognitive functioning that would be required to make some of these decisions. It could be that -- it could be we're talking about, you know, whatever number of cases that, you know, you would need real expertise; and just sort of
continually push that down to, you know, 52
different levels, you know. It might not always be
necessary. It might not be -- just kind of thinking
off the top.

MR. OWEN: And I am thinking off the top
of my head when I think that, you know, resources
are always an issue; and whether or not we would
have the resources for some cadre of expertise
somewhere else.

DR. WILSON: Right.

MR. OWEN: But also from having processed
cases, there is a value sometimes with having the
individual that's working on the vocational analysis
be very familiar with the medical evidence. Because
sometimes when you get to -- we should never really
write RFCs after you have done your medical
analysis -- or your vocational analysis. You are
really suppose to make those limitations based on
what the evidence shows.

But I have worked on cases in the past
where at the vocational step that you see something
that a specific task -- say that you remember
reading something in the medical evidence that
would not support their ability to do that
individual job. It's at that point you realize
that, perhaps, there was a mistake on -- in not
considering that when the earlier -- the medical
forms were considered. So if you had the RFC and
the PRTF -- the residual functioning capacity, the
psychiatric review technique form -- the mental
residual capacity form completed by the DDS, and
then you transferred the case for vocational
analysis to somewhere else, you could risk the
complete understanding of the case that sometimes
you do work backwards to go, oh, that's not fair to
the claimant. We missed something.

So I would be afraid that if you separated
it too much, that you might disadvantage some
claimants; but that's just my own personal
experience.

DR. WILSON: I wasn't necessarily saying
that both parties might come to the actual
determination, but that whatever -- whoever made the
final determination might have access to more than
one source of information as they looked at this stuff. Or even -- you know, there is a lot of stuff going on with content analysis documents. It could be that, you know, you are right, your best examiners are going to pick up on some of those task. You know, others might not. But by going through some sort of content filters, you might be able to really focus people in on, pay attention to this; the various facets of the medical record might relate to the vocational stuff.

MR. OWEN: Ms. Gibson.

DR. GIBSON: What Mark Wilson was just saying actually made me think back to something that came up yesterday. The idea about the electronic medical record frequently, or one of the underlying ideas behind the EMR has been the ability to make use of evidence based decision making, so that when the doctors, nurses, and the like see an EMR it actually makes suggestions for what should happen next based on that.

So it sounds like the potential may be there to utilize a system or maybe create a system.
that takes advantage of those types of networks that are built into EMR as well, which would help the adjudicators actually use the same type of decision making process, if we can build it in.

MR. OWEN: I think I probably ran over my time, I'm pretty sure.

MS. TIDWELL-PETERS: Don't worry, you didn't.

MR. OWEN: Any other questions?

DR. FRASER: Just one quickie. In terms of DDS personnel, is there an issue of people kind of aging out of the Agency?

MR. OWEN: You mean, retiring, aging out?

DR. FRASER: Yes.

MR. OWEN: Like everywhere, I think, right now, especially with baby boomers, I mean, a large number of people that are in the work force that are getting to an age where they are leaving.

I mean, one thing that we have actually done in some DDSs is we are rehiring some adjudicators that retired, and having them come back to help us deal with the increasing number of
receipts. But you know, that also can be complicated by state rules about whether you can retire and then work again for the state, and those complications there; but yeah. My director in our state, I think, left because it was more profitable not to be working there anymore, because she had worked there 35 years. But it's, obviously, something that we face everywhere, including the DDSs; which I am sure attributes, in some part, to the attrition rate.

Any other questions?

Thank you for your time.

MS. TIDWELL-PETERS: And John, thank you very much for your presentation.

We are scheduled for a break. We will convene again at 10:15.

(Whereupon, a recess was taken.)

MS. TIDWELL-PETERS: Our next presenter is Judge David Hatfield. The Hearing Office Chief Administrative Law Judge in the Office of the Chief Administrative Law Judge.

Good morning, Judge Hatfield.
JUDGE HATFIELD: Hi. Good morning, Debra.

Yes, I am the hearing office Chief Judge in a place called Seven Fields, Pennsylvania. It's a suburb of Pittsburgh. It's a new office. I just want to let you know that we are actually in Mars.

If anyone knows Pennsylvania. Pennsylvania is sort of thousands of cobbled together townships that create the state. So we have these dilemmas of who we are.

The Seven Fields office is actually an Adams Township, but on Seven Fields Boulevard, which is across the street. Our mailing address is Mars.

We didn't think really the decision should be coming from Mars. We settled on the name of Seven Fields. It is a little more politically -- although, out of the world adjudications might actually have been a nice title.

I want to thank everyone for inviting me.

I also want to -- very, very pleased. As an adjudicator in the system, I am very, very pleased that this Panel has been convened. I am very, very pleased that Commissioner Astrue convened this
Panel, because at the Administrative Law Judge level, we sit primarily in the sequential evaluation process at steps four and five.

Many of the cases where a claimant meets a listing or it's a medical decision only has been vetted, meated out, so-to-speak, at the DDS level. They do a great job at that level. So when folks appeal to our level that have been denied, the cases tend to be looked at, at step four and five. So vocational analysis and vocational issues are paramount for administrative law judge to have knowledge and to dispose of the cases.


So at prehearing procedures -- what I want to do is just talk a little bit about the Administrative Law Judge level first, just to lay a foundation; and then talk more specifically about what we do in terms of the vocational evidence that we see. And that primarily comes from vocational experts that we call to hearings.

As was mentioned before, the hearing
before an ALJ is the third step in the administrative review process, following review at the initial and reconsideration levels.

Pennsylvania is one of those ten states that Mr. Johns eluded to before, prototype state. Actually, folks, in Pennsylvania, if they are denied initially, they appeal, they go straight to an Administrative Law Judge hearing.

This isn't on the slides in your materials, but I thought based on some discussions I heard, sort of what is ALJ? You know, who is this person. An Administrative Law Judge is a judicial officer in the executive branch, not the judicial branch. So we're essentially fact finders. We are listening to the evidence, making findings of fact in a decision. We don't make law. We don't reverse law. We merely follow the law and the Regulations promulgated by the Commissioner. So if those Regulations, if we happen to disagree, it's too bad; we're bound to follow these Regulations until, perhaps, a District Court or Circuit Court overrules it.
Administrative Law Judges is, however, insulated by the APA, Administrative Procedure Act. It really was intended to insulate fact finders from any kind of political interference from the Agency. So that insulation protects us from, for instance, an Agency telling us how many cases to pay or how many cases to deny. But that's the insulation. It's really -- it has nothing to do with, for instance, our following the rules and regulations that the Commissioner promulgates. We are bound by those rules. We look at those rules. We apply those rules to the evidence before us.

Basically, what happens -- and this is sort of a retread. I will just go through this quickly; but essentially, if a claimant is dissatisfied with the DDS determination, they can request a hearing before an ALJ. And person goes into the field office, fills out a form; and the form is sent to the hearing office. The hearing office looks at the form to make sure there isn't any procedural hurdles we have to overcome before we give this person a hearing.
For instance, there is a 60 day filing requirement. If they don't meet that, we look to see if they have good cause for not filing timely. There are some issues where we have to see if procedurally they have a right to a hearing.

Just to give you a little bit of the idea of scope of what we're talking about, these numbers are pretty large. But in FY08, the ODAR offices -- ODAR, by the way, is just an acronym for the Office of Disability Adjudication Review that oversees the hearing offices -- we received almost 6,000 request for hearings.

As you can see, in the first two months, we received 105,000. So it is a big operation. In the last year or two, we have managed to almost keep up with the receipts. As you can see, about 575,000 dispositions; but of course, 591,000 came in; so we're falling a little bit behind. We have 760,000 cases pending currently. Then, that's crept up to about 767,000 as of at least the first two months of fiscal year 2009.

We are at record highs in dispositions.
Everybody is working extremely hard. It is just that more are coming in than are getting out. I will tell you, too, just to give you an idea of the magnitude of this process. We have approximately 1100 administrative law judges in the Social Security Administration. My understanding is in the entire government there is only 1300 or 1400. So we constitute over 80 percent of the entire administrative law judge core in the government.

Before the hearing is scheduled, we do look at certain cases. We do do some triage as they come in. Sometimes folks have gotten worse. Sometimes there is new evidence that the DDS wasn't able to get; and sometimes those cases can be paid without a hearing necessary.

So we do try to call out those cases that those folks are in desperate need for an allowance, the evidence supports that, and we can just go ahead and pay them without the need of a hearing. We also sometimes will send out interrogatories to medical experts or vocational experts. They can also form the basis of an on-the-record decision.
Basic hearing procedures. Just a few things. First, is that the hearings are held in person. Some are by video conferencing. We have video in virtually every hearing office, and in every hearing room now in the country, and in some remote sites. So video conferencing can certainly help us to meet the demands of this workload. We can move work around, help out offices that are in need of that, et cetera.

So with national -- with -- the Commissioner established national hearing centers that have -- do hearings virtually -- totally by video. They can work on those bulges in the workload in certain offices that are behind.

It is a closed hearing. The hearing has, of course, very personal sensitive information, many of them; and as a result, there is a lot of personal identifying information that's discussed. So the hearings are closed to the public.

Generally, at a hearing there is an Administrative Law Judge, the claimant, a hearing reporter, and then any witnesses that the claimant
wants to bring in; and then experts as we need them. And I will go into that in greater detail. If anybody has any questions while I'm talking, please, just interject.

DR. SCHRETLEN: I just have one quick one. Are all claimants represented by counsel?

JUDGE HATFIELD: No. A claimant doesn't -- isn't required to have a representative. The Administrative Law Judge, if they get an unrepresented claimant at their hearing, will, at least, advise them of their right to a representative; and tell them certain things about a representative. But they are not required to have counsel.

I would say -- Ms. Shor probably has these statistics at the tip of her tongue, I suppose. But I think that the last I saw, about 85 percent something like that, are represented by counsel.

And speaking of counsel, it can be an attorney or nonattorney, as long as that person is approved by the Agency to represent claimants. So as you can tell, about eight out of ten are
represented by counsel.

The other thing I want to mention is that this is a nonadversarial hearing. There is not two parties. It's a very -- in some ways a very nontraditional model of adjudication. Social Security judges essentially -- at least the Supreme Court -- is deemed to have three hats. And essentially, what we're here for is to protect the -- protect the due process rights for the claimant. At the same time, we are to meet out funds -- correct funds on behalf of the trust fund, and then make the decision itself. So we wear various hats.

We have to inquire into the matters at issue. We really can't sit back and let two parties fight it out. So we're very active -- or most of us are very active in the adjudication process.

We ask questions very -- a lot of questions. We have to know the file in order to ask the right questions and to get to the truth of the matter. So it's not adversarial. So in that regard, it's informal. There is no rules of
evidence. We don't follow any rules of civil procedure. At the same time, we get a record of the hearing, so it's taped. Parties are taped -- put under oath. So they are sworn in to tell the truth. But in essence, it's a fairly informal process. I try to make my hearings as comfortable for the claimant as possible, so the claimant can tell his or her story and not feel intimidated. Another point is that it's de novo. I think that's a very important point in the adjudication process. We are not -- the judges are not here to determine whether the DDS was correct or not. That's not the standard. A totally de novo hearing. Our job is to look at the case afresh. Certainly, the DDS adjudication, any medical opinion that's attached to the adjudication would be looked at by us and is the evidence; and certainly, we could weigh that opinion based on the totality of the evidence. But our job is not here to determine whether it's correct or not. It's a totally fresh look at the claimant. I think that's an important point to remember.
The hearing itself, as I said, is informal. The ALJ makes an opening statement. Basically tells the claimant what the issues are. We take evidence under oath, as I said; and then there is closing statements. The representative has an opportunity to question, obviously, the claimant and any experts that are there, and make closing arguments, send in prehearing briefs, and the like.

Okay. So let’s get to expert testimony. As we have heard, steps one, two, and three are essentially nonvocational in the sense that step one, of course, is if the claimant is working? That's a non-medical determination.

Steps two and three. Steps two, it really involves no experts, at least at our level. At step three we might employ a medical expert to determine if the claimant meets or medically equals a listing; but we get most of our expert testimony at steps four and five with vocational experts.

So before we schedule a hearing, the judge reviews the file, determines if additional evidence is necessary; and also whether any kind of experts
are needed at the hearing. So we're looking at the
case to determine whether an expert would guide us
into the decision making. In the vocational arena,
they guide us into decision making as to the
vocational issues in the case.

These numbers are rather telling, I think,
on the process. We had medical experts in about
17 percent of the hearings. But vocational experts
were in about 72 percent of the total hearings held.
That's a high number; and it's even actually higher
when you think we also do SSI children cases. For
children, the issue of work is irrelevant, whether
they can work or not. So a vocational expert is
inappropriate. That's about, I was going to say,
close to 10 percent of our workload. We had another
percentage of our workload which are nondisability
issues.

Any person who is dissatisfied with any
part of the Social Security Act for that matter can
file a request for hearing. So we get cases on
things such as overpayments, whether the child is a
child of the wage earner, whether the marriage is a
common law marriage, whether the widow is actually the widow. Those kinds of things come up. That's about five percent. So if you eliminate those types of hearings, which vocational experts are inappropriate, we're probably talking more in the areas close to 90 percent.

Okay. So vocational experts. Who are these folks? They are vocational professionals who provide impartial expert opinion testifying at a hearing regarding responses to interrogatories.

Vocational experts are folks that have experience in the DOT. They have knowledge of the DOT. They have active placement of individuals. They do market surveys, job surveys; and they're suppose to be very informed on all kinds of publications in the field of work. They provide impartial expert opinion evidence. That's important.

They're not my expert. They're not the representative's expert. They are an impartial expert just there to give impartial testimony to guide me in decision making as to the issues in the
case. Even though they're paid by the Social Security Administration in a contract, they are not our experts. What they do is they get a blanket purchase agreement. Basically, once we determine that they meet the qualifications, our regional offices set up an agreement, usually for a year or so, so that they can do vocational expert testimony.

Another thing to tell you is that they're selected from a roster in the hearing office on a rotational basis. So all experts are considered to be the same. They're fungible, I suppose -- and I guess that's not a good word; but they're the same.

And so we are not to pick one expert over another. We pick them in a rotational basis. The roster is maintained by the regional office. If an expert is not giving good testimony, or their qualifications are poor, or something happens, they can removed by -- by the regional office. The hearing office would normally send something to the regional office telling them to remove them.

Claimants and representatives are notified in advance of a vocational expert. So for due
process reasons, the claimant is to know that this
person is going to be there, and they're going to be
talking about expert testimony. Yes, sir.

MR. HARDY: Good morning. Is it rare or
more common that a claimant will have their own
vocational expert come in as well?

JUDGE HATFIELD: Okay. It's very
uncommon, at least, anecdotally from my experience.
I think that's -- I think it's true generally in the
nation. It's rare that a representative will get
their own expert. I think the representatives,
by-in-large, like this kind of set up because the
person is impartial, and there is an arm's length
between the judge and the vocational expert. They
rarely get their own experts. Actually, they rarely
bring any kind of expert testimony to the hearing.

They might bring some lay witnesses on the
claimant's behalf, but it's rare that they bring in,
for instance, the treating source, or vocational
expert. Now, they could submit that by -- in
writing, and representatives do that. On great
occasions they will send out request for functional
capacity evaluations, for instance, from a treating physician. Or they might go to a vocational expert and ask them certain questions and then submit that in writing; but it's rare that they're at the hearing.

When vocational expert testimony may be necessary? Mr. Johns and others talked about the need for vocational analysis in certain areas. At step four, if we have a vocational expert there, we're going to ask the vocational expert to discuss the claimant's past work as he or she generally performed it -- I'm sorry, as specifically performed based on their testimony and what they gave us in writing previously; and how it's generally performed in the national economy.

As Mr. Johns said yesterday, it's an "or" test there at step four. If they can do their job as it's generally performed, even though they may not be able to do it as they performed it, they still are not disabled.

A good example I always give, in Pittsburgh we have the Primanti sandwich. I don't
know if anybody knows the Primanti sandwich. You should, because it is the best sandwich in the world. Basically, they put everything in the sandwich. It is for the truck drivers to eat in their cab. They put the French Fries, and the meat, the sauerkraut, and everything. Well, those things are heavy. The waitress are carrying those things, they are like 50 pounds.

That job, as she performed it, might have been medium work. Generally performed as a waitress it is a light job. So a little bit of levity there. So it's an "or" test.

We're going to get the vocational expert to tell us how this job was performed generally. And as Mr. Johns absolutely correctly said, we get that information from the DOT, from the SVP level of that particular position. So we are looking at the DOT at that point to determine at step four if they can do their past work.

If they can't do their past work, an ALJ will employ a VE to determine whether the claimant can perform other work that exist in the national
economy. Again, as Mr. Johns said, the burden of going forward with the evidence shifts to the Agency at that point to specifically state whether there is a significant jump -- a number of jobs that exist in the national economy or not.

So we get -- at this level we get vocational experts to assist us in the answer to that question.

Then, of course, transferable skills is something that we employ vocational experts to help us on as well.

As I said before, we don't get vocational experts in childhood cases; the issue of work is not relevant. Non-disability cases, the issue of work is not relevant. Or grid rules directs that a claimant is disabled. The rules are irrebuttable.

So if the person is age 55, is limited to sedentary work, has a limited education, and unskilled work experience, they're going to -- they're going to be found disabled based on the grid. We could get a vocational expert in there, and I'm telling you a vocational expert will
probably give you some jobs based on, perhaps, that residual functioning capacity; but we can't do that because the grid rules are irrebuttable.

We take an administrative notice that a significant number of jobs in the national economy do not exist, and we pay that case. Just the same as if a grid rule directs the claimant is not disabled, we take administrative notice that jobs do exist.

So the grid really is helpful for administrative law judges to take administrative notice at step five; but I think, as been said by other panelists, it's a rare case, honestly, where somebody actually can -- their limitations fall squarely within the seven exertional demands at an exertional level on the grid.

I see almost all my cases that don't -- that don't fall out and are paid based on a grid rule directing. If they don't, they're usually in the framework area. And in the framework area, as we said before, we need some sort of guidance to discharge this burden that we have at step five to
determine whether a significant number of jobs exist in the national economy.

Now, this slide, there is an error in the first bullet. The last phrase of that says the number of jobs existing in the national economy. That should be stricken. Because at step four, an ALJ is there to ask the VE to detail the description of the job that the claimant performed, and to determine the skill and exertional level as he generally performed or is customarily performed.

The fact that the job exist in many numbers, or hardly exist, or doesn't even exist is irrelevant at step four. I think the example yesterday was given in the Supreme Court case about the elevator operator is a good one. The fact that there aren't any -- many elevator operators left is really immaterial at step four. The issue there is simply -- does -- the claimant's residual functional capacity, comparing that to the demands of the job. If they can do the demands of that job, and it was past relevant work; then, they must be found not disabled at step four.
At this point also, the VE will give us a variance in the description of the particular job. If it suggest -- the evidence suggest that the inability to perform the job differently than the DOT, I'm going to get into that a little bit more specifically; but that's what we were talking about this morning, about the DOT being outdated, and not having -- describing really the skills, and the exertional level that is in -- the job as presently constituted. And we do that even at step four.

For instance, I think it was the bagger or something at the airport. We would have the vocational expert testimony that this job was performed at a different skill level. If that's the case, if that testimony is reasonable and is supported by their experience, in that type of thing, we would probably go with the expert's testimony.

Just in italics there is the description of jobs. It is up to the ALJ to determine whether the work is past relevant work. Based on those three prongs that Mr. Johns talked about yesterday,
that the work has to be substantial gainful activity. It has to be performed within 15 years of the date of adjudication; and that has to have been performed long enough to learn how to do it.

Now, after getting testimony on past relevant work, we then ask questions about -- a series of hypothetical questions of the vocational expert. I get vocational experts in almost every case. And even if -- and I do because, for instance, I may be going into the hearing thinking this is a strict grid case. Person has a bad back. It looks like they can do the full range of light work. But when we get to the hearing, possibly, there is something additionally that's been brought up by the claimant or the representative. So I want that vocational expert there just in case I need him or her to give me evidence.

They are paid -- the vocational experts are paid 75 -- actually, the first case of the morning is $110 for the case. Then $75 for each case thereafter for that day.

So I see them as -- honestly, as a cheap
insurance policy really in terms of if that case is
going to be found to be not disabled, I want to be
able to discharge my responsibility, my burden to
show that other jobs exist. I have the vocational
expert there to guide me in that area. So I don't
want to be winging it. I want to make sure that my
findings of facts are supported by evidence. So I
will have a vocational expert there in virtually
every case.

I will tell you, almost every case, as I
said before, it is a rare case that falls squarely
within the grid. Claimants have many, many
impairments, including psychological impairments,
particularly, if they have been having chronic
problems, pain problem for quite a long time usually
manifest itself in some sort of emotional condition
as well.

If those conditions have limitations,
significant limitations on the functional demands,
functional capacity of that person, we're going to
need to get a vocational expert.

So what we do is when we get a vocational
expert we ask the vocational expert hypothetical
questions. We don't ask the vocational expert to
look at the file and determine what he or she thinks
if the case is a pay or deny, or if this person is
in pain or not. That's not what they're there for.

The best vocational expert for me is
almost a robot. They're there to just spit back
information based on data that I feed to them,
hypothetical questions. And then, they will tell me
whether -- based on those limitations that I pose to
them, whether the claimant can "A" do his or her
past relevant work as generally or customarily
performed, or as specifically performed. And/or
"B," whether there are other jobs that the person
could do based on those limitations.

So I am going to be asking hypothetical
questions that may or may not be grounded in the
evidence. I have gone into this hearing open
minded. I have given this claimant a due process
hearing. I want to hear all the evidence. I want
to hear all the testimony. This is the first time
the claimant has had an opportunity to be in front
of someone face-to-face, and tell them why they think they're disabled. So all of that testimony is extremely important in the determination as to whether this person is disabled or not disabled.

So I am going in there, you know, pretty loose. I have got some ideas as to certain limitations that may or -- I may or may not accept. For instance, I might use the DDS's residual functional capacity as a hypothetical question to determine whether jobs exist. I might then use a treating source's statement as to the claimant's abilities and frame that as a hypothetical question.

I might take some of the claimant's testimony that they, for instance, have to lie down three hours a day because of their back condition and ask the vocational expert, based on a limitation such as that, are there are any occupations that a person could do?

So I am asking a series of hypothetical questions; one of which will probably be my residual functional capacity in the case, which will then drive me to the decision as to whether they're
disabled or not. That's kind of the way we operate.

Yes -- oh, I'm sorry. Okay.

I want to talk a little bit about this conflicts in the VE testimony. I think this is really germane to what the Panel is here for. Just to give you an idea maybe from a field perspective.

As Jeff Blair had indicated yesterday, there was a lot of litigation on this issue of vocational expert testimony not jiving with the DOT.

And they went into court and said well, you know, this person said this was a sedentary job, but the DOT says it's light. The court would remand and say, well, resolve this inconsistency. And the Agency decided to codify that, so-to-speak, in a Social Security ruling that would be binding on all the judges to essentially require us to ask the vocational expert after they have given their testimony as to jobs, as to whether that information is consistent with the Dictionary of Occupational Titles.

If they say that it is consistent, fine. If they say it's not consistent, then, we have to
ask them for an explanation of why it is not consistent. Then we have to decide whether that explanation is reasonable.

This is happening more and more -- for me anyhow, as the DOT becomes more and more obsolete. As we discussed for the past two days, jobs have changed since the DOT has been revised. And so I get a lot of testimony that the occupation is different now than how it's described in the DOT.

And so that concerns me, at least from a -- maybe from a global standpoint of uniformity and consistency. Social Security Administration, that's what we're all about is to ensure that the person in New York gets the same shake as the person in California. So we want to have uniform and consistent decision making.

I think that's really, in some ways, the heart of this Panel, to ensure that we have the tools necessary to ensure that every -- you know, every person in the country gets an even shake in the determination process.

So at least from my standpoint, it's --
this panel is just very, very critical in helping us
in the field to adjudicate properly and
consistently. So we are bound to ask that question
and then get certain information.

As I said, my concern is with the outdated
DOT data, because as more conflicts arise between
the DOT description and the VE's testimony, we could
be having dispirit testimony from vocational experts
in the country.

One of the examples I give -- in the
materials, I gave two decisions, by the way. One is
a favorable, and one is unfavorable. In the
unfavorable, there was testimony about a
telemarketer. The telemarketer, I believe, is an
SVP 3 in the DOT. So that would be a semi-skilled
job -- low end of semi-skilled.

But vocational experts have told me that
the job now with technological advances and such, is
really an unskilled position; usually learned in 30
days or less, which would give it an SVP level of
one or two. That's the example I gave in that
particular decision.
Of course, that's extremely critical, because if the person's residual functioning capacity that I find where they are limited to unskilled duties, for instance, in the cognitive area, I can't rely on a job, such as telemarketer, perhaps -- I can rely on the job as telemarketer; but I couldn't of under the DOT, at least under that testimony. It works both ways. It cuts both ways, sometimes these skills and exertional levels are different. They are in the favor of the claimant. Sometimes they're not in the favor of the claimant. Just to give you an idea of these hypothetical questions. We will ask the VE, again, to -- sort of the hypothetical question based on the claim. A person of similar age, education and previous work experience with ability to perform sedentary work as defined in the regulations. We use sort of shorthand in our hypothetical questions. Sedentary work is a long definition in the regulations and the rulings describing the seven exertional demands. Since we have already put this person on the stand as an expert in vocational
evidence and knows the DOT, we presume that they
know the -- the regulatory definition of sedentary
work, which is really those definitions came out of
the Dictionary of Occupational Titles. Again why
the Dictionary of Occupational Titles is so
important in the adjudications.

Then, we will also ask them if they have
additional limitations from the sedentary. For
instance, they may have -- they can use repetitive
hands movements at 45 minute intervals, with a 20
minute break at each interval; and they would be off
task more than 20 percent of the work day. I never
ask due to concentration difficulties. That's
immaterial. We don't care where it comes from.
Just have the vocational expert testify as to those
limitations.

Then they will say, there is occupations
that exist or there are no occupations that exist.
Where did I get these kinds of limitations? Well, I
might have pulled them out of the file from a
functional capacity evaluation, maybe even a
consultant examination that the Agency sent the
claimant to; and then that person describe what he
or she thought the claimant could or couldn't do.

Regardless -- or it might be from the
testimony. But if you see -- we have specificity in
our hypothetical questions as to what the claimant
can or can't do vocationally in a eight hour day.

So we don't ask vocational experts, well,
assume this person has the pain that he or she
describe, you think they can work? We don't do
that. We don't hand the adjudication off to the
vocational expert. We merely ask hypothetical
questions that contain limitations that are
vocationally relevant that a vocational expert can
reasonably be able to respond to. Yes.

MR. HARDY: Excuse me, Your Honor. What
does off task mean to you?

JUDGE HATFIELD: Off task -- that's a good
question, because if you are my vocational expert,
for instance, you may ask me that. What do you mean
Judge, by off task? Then I will define it.

It is usually defined as a person who is
not on the task that they are being handed to in the
workplace. So they're not doing the job that they
are being told to do at that time. So in this
particular person is off task more than 20 percent?
They might be -- the evidence might indicate -- that
hypothetical might come from somebody who, for
instance, in a psychological evaluation is not being
able to attend a task in a mental status
examination. They can't do serial sevens, spell
"world" backward, all that kind of stuff.

It might be that they're in such pain from
their back impairment that -- at least they testify
to -- that they have to lie down, say, an hour a
day. So they would be off task from the job site
for that amount of time.

The critical part here is what the answer
is. And so in this particular one somebody being
off task more than that is unacceptable in a typical
work environment. The vocational expert might
answer that question that way, that based on their
surveys and placements that somebody has to be on
task except for breaks in the morning and afternoon
and at lunch, or something like that. So we get
1 testimony -- specific testimony as to what that
2 means.
3
4 That's a good question because -- and
5 this, again, goes to sort of consistency and
6 uniformity. Some vocational experts will testify,
7 perhaps, to a different standard.
8
9 I will tell you something very -- it just
10 seems obvious, but absenteeism. And this is, again,
11 something maybe an action item or whatever you guys
12 might want to think about is that's a very important
13 ingredient if you are going to work, whether you are
14 going to be there at work. Ask a vocational expert,
15 what is an acceptable tolerance by an employer for
16 entry level unskilled position -- the positions you
17 just testified to -- and you will get varying
18 responses honestly.
19
20 So there are certain elements, at least
21 from an ALJ standpoint, that I would like to see at
22 least discussed and maybe come up with some sort of
23 national uniform acceptable position on those
24 things, absenteeism, being able to be on task, what
25 is an acceptable tolerance rate of being on task,
those kinds of things.

Just one other hypothetical question.

This is one who, again, due to anxiety, I don't ask that; but if we had a person who was unable to work with the general public more than 35 percent of an eight hour work day, that might, again, come from some piece of evidence in the file. Maybe the person has an anxiety disorder, or personality disorder, or something, explosive disorder or something; they can't work with the public. That might be their limitation.

I can't decide this case without -- for me, anyhow, a vocational expert. Again, step five the duty -- the burden is on me to determine whether a significant number of jobs exist. So I can't put my finger in the air and say maybe there is a significant number or not. I have to have that in the record so if that case is denied, or if it's paid -- but if it's denied, the reviewers will know that I have information that has supported my decision. And of course, if it's an allowance -- if the vocational expert says there is no jobs, then I
have discharged my responsibility in that direction as well.

In this particular case, there are jobs that can be performed, at least in this hypothetical, file clerk defined as a light, unskilled job. Then the VE will say, approximately, "X" number of jobs exist in the national economy. The regulatory definition for work that exist in the national economy is one or more occupations that exist with underlying jobs in those occupations.

So in this particular case the vocational expert said that the job base would be -- would be approximately reduced about 10 percent. They will say things like that. Certain limitations will reduce some of the jobs in that particular occupation, but not all of the jobs. Yes.

DR. GIBSON: Sorry to interrupt. A question, Your Honor. You may not be the best person to answer. It may be an answer from yesterday. I was just sitting here doing the math, and going back to step one of this -- I was just seeking clarification -- at step one with
substantial gainful activity, is the person currently involved in it? We say the person is capable of becoming a file clerk. Assuming a file clerk pays minimum wage, which is five dollars and change an hour. That works out to a monthly income which is less than the substantial gainful activity level criteria we needed.

JUDGE HATFIELD: Right.

DR. GIBSON: So how does that play out in the end? You are recommending the person is not disabled, because they could hold the job as file clerk. However, if the person holds a job of file clerk, that would have disqualified them at the beginning, because it doesn't meet the dollar and cent threshold.

JUDGE HATFIELD: No; no; it's a good question in term of the SGA amounts in some way exceeding minimum wage. Basically, they are out the door if they are doing SGA. It is not like they have to -- if they earn that amount, or as Tom said, a penny more than the amount, then, they are deemed to be doing SGA.
At step five, we're really not interested in that. All we're interested in is whether the person -- whether they're a significant number of jobs that exist that this person could do given their residual functional capacity. Pretty much all what the law says. So if there are occupations out there that represent significant numbers, you know, we're forced by law to find that that person is not disabled.

That's, I guess, the best answer I could give. Certainly, if somebody is a file clerk and they're working and earning only $600 a month, they are not doing SGA, right. So it is not past relevant work. Conceivably that person might have a residual functional capacity so constrained that there aren't jobs that they could do on a regular basis, but still be able to do that file clerk job under SGA. That is possible. Yes.

MR. HARDY: I'm trying to remember, Your Honor, the other day at step five -- work that exist in the national economy. Did I see somebody say something about region; is there a region
definition?

JUDGE HATFIELD: Right. The definition of national economy is in the region you live or in several other regions in the economy. And that's -- that definition defines national. So -- and that is basically to preclude the anomalous position of doing -- anomalous example where they are doing isolated jobs; say, salmon fishing in the state of Washington, and we are in Miami, or something like that.

What we try to do is get national numbers of jobs that exist in several regions in the national economy. So work like assembler, packing and those type of jobs exist in several regions. When I ask for jobs I ask for national numbers. If the numbers are in the hundreds of thousands, that actually is sufficient for the definition of national.

MR. HARDY: Is there a definition of regions?

JUDGE HATFIELD: It's in the region where you live is how the Regulation is stated, but it is
not in the immediate area. So for instance, it's
irrelevant whether their job is down the street from
the claimant; but it is relevant in the region where
they live. In Pittsburgh, we usually get the --
sort of the tri-state area of Pennsylvania, West
Virginia, and Ohio. We're just about up on Ohio.
So that tri-state area is our region that we ask for
jobs. Sometimes I will also ask for also state jobs
in Pennsylvania. That's another region in the
national economy. But if it's significant numbers
in the region where they live, or in several regions
of the economy, constitutes national.

MR. HARDY: Thank you, sir.

JUDGE HATFIELD: Yes.

And of course, just to also say that it's
not whether those job are open. Hirability is
not -- it's also irrelevant. It is just whether
those job exist.

The individual has a right to question the
vocational expert too. So the claimant or their
appointed representative if they have one, will also
ask questions of the vocational expert. And
usually, the dialogue happens is they will -- they will, for instance, maybe question particular jobs that the vocational expert has noted. They might try to poke a few holes into that testimony as to whether those jobs really can be -- those jobs really are -- can be done based on the hypothetical question that the judge gave them. They will also ask additional hypotheticals, perhaps, that the judge hasn't asked.

Generally, they result in no jobs, because they're the claimant's representative. But they will ask additional hypothetical questions. And then, you know, the representative will then make an argument that the hypothetical question judge that I just gave, which is that this person has to be away from the job site for two hours a day because of her migraine headaches really is supported by the evidence; and here is the evidence that supports that. I urge you to find in my client's favor, so something like that.

And then, finally, the ALJ decision. The regulations require us to write a decision that's
based on findings of fact and evidence in the
record. The decisions that -- the samples that are
in your materials follow this particular format.
Basically, the procedural history of the case, the
statement of issues, applicable law, et cetera.

We assess the sequential evaluation
process and discussion of the weight given to each
piece of evidence; and a resolution of the
allegations and credibility findings. So all of
those things are either in the regulations or the
ruling that, as I said from the outset, are legally
binding on judges; and we are to address these.

The VE testimony is also to be discussed
in the decision, because this -- the VE testimony
could be the lynch pin to the case at step four or
five; particularly, at step five. If it's found the
claimant can't perform his or her past relevant
work, then the VE testimony will be used to explain
whether they can do other jobs or they can't do
other jobs.

As I said, the examples in your material
show one where the VE's testimony found that there
are no jobs based on residual functional capacity; and the other cases where there were jobs found.

And that concludes my presentation. Any questions about what we do here at the ALJ step?

DR. FRASER: I have one question with regard to the VEs. It seems that the pay scale has been fixed for decades. If we're working toward a new system, hopefully it's helpful; it might be a little more complex. I think a number of VEs have decided not to do this type of work. Has there been any emphasis on reviewing the pay scale? Because my understanding is that we're down quite a bit nationally in terms of the number available.

JUDGE HATFIELD: Yes, I don't know if we're down. That very well could be. There have been some studies done on pay. There have been some proposals made on pay. I think the Agency is looking at that, I think. I am probably not the proper person to respond to that. But the $75 has been the same amount, I think, for a good 20, 30 years.

So the same pay scale existed -- I know I
started with the Agency in 1976. I think it was about that at that time.

DR. FRASER: That would be like less than 50 percent of what a private sector VR counselor makes in our area. In the northwest -- our area -- thanks.

JUDGE HATFIELD: You bet.

One thing to consider -- I just throw this out -- is, as you heard yesterday, we had the Medical Vocational Guidelines. And those were really vetted. They were supported by the DOLs figures, and were affirmed by the Supreme Court to be able to do that kind of thing for the Agency to take administrative notice.

And the reason for the Medical Vocational Guidelines -- and I believe Jeff commented on this -- was to bring uniformity and consistency into decision making, so that we wouldn't need a vocational expert in most cases. Ironically, we have vocational expert in almost every case now.

Part of that, I think, is this framework issue that people have discussed, where we either --
once we get to the framework in the rules, we have
to have some evidence in the file to show that jobs
exist or don't exist. We can't take administrative
notice at that point.

Many of the limitations we hear we receive
on a regular basis. One of them is postural
limitations. Again, the DOT doesn't really speak --
I think that's true, right, Sylvia. The DOT doesn't
really speak to postural limitations.

MS. KARMAN: Well, actually -- the way I
understand postural limitations, stooping,
crouching.

JUDGE HATFIELD: No, actually, I misspoke;
sitting and standing. Where they have to alternate
sitting and standing.

MS. KARMAN: Oh, okay.

JUDGE HATFIELD: So exertionally, yes;
they cut across two exertional levels.

MS. KARMAN: That's correct.

JUDGE HATFIELD: Yes. So the DOT doesn't
give us much guidance on that. So for instance, if
you have a person with a bad back, like me, who has
to sit, perhaps, maybe for an hour, has to get up for 15 minutes, sit back down. Or 15 minutes every -- or sit and stand every 15 minutes. That cuts across the exertional categories, because sedentary presumes someone sits for six hours out of an eight hour day. And light presumes they stand and walk six hours out of an eight hour day. So they are really not -- it's sort of in between sedentary and light.

In any event, we feel the Administrative Law Judges, get a vocational expert to determine if there are jobs that exist, given those kind of -- I shouldn't say postural, because that does connote a different meaning; but a person who has to sit and stand alternately, for instance. Something like that, if there is empirical evidence to support either the job exist or don't exist, depending on the amount of sitting and standing, for instance, I think will be extremely helpful to adjudications, not only at the ALJ level, but probably at the DDS level. Certainly, at the ALJ level.

Other types of limitation such as -- for
instance, in seizure disorders where they can't be
around heights, or dangerous machinery, moving
machinery. I don't have a Social Security Ruling
that can say whether the jobs exist or don't exist.
If somebody has those kind of limitations, I need
the services of a vocational expert to guide me in
decision making as to whether those jobs exist or
not. If there was something that I could take
administrative notice of, for instance, in those, as
I said, either way, it would certainly help in the
decision making at the ALJ level.

DR. WILSON: Judge Hatfield, I just have a
simple procedural question. If a claimant's
constellation of impairments fits squarely in the
cell of the grid, you said that the determination of
disability is irrebuttable. So why would such a
person even come for administrative review? Why
would they even come for a hearing?

JUDGE HATFIELD: Okay. That's a good
question, because what happens is a lot of things
change in the process. Claimants get worse, for
instance. New evidence that happens. Or as I said,
it is de novo. So in theory and in practice the DDS might find that this person can do medium work as that's defined in the regulation. We look at the evidence, and perhaps, find that the preponderance of the evidence supports light, for instance. And if that is the case, if it is a light exertional category, they might be found disabled under the grid. That's how those cases sort of come up.

Any other questions?

Thank you very much.

MS. TIDWELL-PETERS: Thank you, Judge.

Thank you, sir.

JUDGE HATFIELD: I'm going to turn this over to a former colleague of mine at the Appeals Council who never, ever remands or reverses me.

MS. TIDWELL-PETERS: Okay. We would like to welcome Judge A. George Lowe. He is the Administrative Appeals Judge in the Office of Appellate Operations.

Good morning, Judge Lowe.

JUDGE LOWE: Good morning. My name is George Lowe. I am on the Appeals Council. I am one
of, roughly, 33 appeals judges that sit on the
Appeals Council. We're assisted, as I am sure you
can guess, by a very good able staff, which we
don't have a lot of attrition -- as I was listening
to this morning's presentation -- except by virtue
of retirement, which faces the Social Security
Administration generally right now.

We're located both in Falls Church, where
our headquarters building is; and also up at
Woodlawn where the main Social Security complex is.
We have what we call five branches up there, where I
work; and we have about 18 branches that are located
down here in the Falls Church area.

Following up on Judge Hatfield's
observation, we're kind of the last stopping point
on the way to the Twilight Zone in the sense here.
He was in Mars.

The Appeals Council sits there between
when they have the de novo hearing and when someone
may want to go to Federal District Court to seek
judicial review. Our job is one, I think that in
terms of numbers is substantially less than you
heard this morning. We're down from the millions
that are initially filed that the DDSs have to look
through. We are down from the hundreds of thousands
that go to the hearing level.

Generally, our number -- just to reflect
to the current numbers, and we will get to them in a
second -- generally they range between 90 and
100,000 request for review annually. To give you a
little look forward, the court numbers result after
us generally are anywhere from 12 to 15,000. So
it's quite a step down at this point.

Representation is even higher. I would
say representation probably increases well over
90 percent on cases that come to the Appeals Council
as people get ready to go possibly to court.

Primarily, I would like to say these are
the more difficult cases to decide. If it was easy
on medical grounds, I am sure that DDS has taken it
down at the lower level. The cases that could be
adjudicated were done at the hearing level after a
lot of evidence has been adduced were done so.

If you think of what we are confronted
with at the Appeals Council -- and also I would have
to say the claimant, for the first time, they now
have a full rationale provided to them in a very
well-articulated decision by a decision maker about
what he or she thinks is the appropriate facts and
statement of law in their case.

They have a very abbreviated form of that
coming out of the DDS by virtue of volume. The
judges at the hearing level have now given them a
better picture. In addition, the testimony that's
been eluded to here, the VE testimony, or medical as
it might be in some cases, is all there.

We often get requests immediately after a
hearing when a person files for review at the
Appeals Council for copies of the recordings of
those hearings. So that people can listen to what
was stated by the vocational expert to be sure that
the decision reflects accurately what, in fact,
transpired at the hearing.

So for the first time everyone is looking
at all sides of this, both from the claimant's
perspective, and the government's perspective, at
the full panoply, if you will, of what did transpire
at the hearing, and all the evidence in the record.
To some extent the role of the Appeals Council is a
little bit different than what has been echoed here
by the previous two witnesses.

I'm a little bit reminded, as I think
about all the hypothetical questions that I have
read through personally, and that we have referenced
here today -- and we might need a little humor in
terms of occupational questions that sometimes don't
get asked.

I am reminded of a story about the
individual who wanted to hire someone to paint white
lines on the highway. And he had a man come in.
The man assured him that he would do a good day's
work everyday. So he took the men out to the
highway. He handed them a bucket of paint, and he
handed them a paint brush, and said well, go to it.
You just paint right down the middle here, and get
it done.

At the end of the first day the man had
painted, roughly, three miles of white lines. The
employer was very impressed with his performance,
complimented him, and paid him well. He came out on
the second day and he only did two miles of white
lines. And on the third day he only did one mile of
white line.

And the employer said well, you know, I
really -- I can't believe it. This guy was so
impressive the first day. Now seems like he is
lazy, isn't working hard at this. So he confronts
his employee. He says, you know, you really are not
doing as good a job on days two and three as you did
on the first day.

And the employee said, what do you mean?
He says, I worked even harder on those days. The
employer was kind of shocked at that. He said,
well, how can that be? He said day one, you do
three. Day two, you do two. Day one, you only do
one. The employee says, yes, but that bucket of
paint keeps getting further and further away
everyday.

So sometimes those hypothetical questions
are the ones you really do have to ask.
Okay. Let's just kind of start running through the overheads here. See if there is any questions about what we do. The AC is looking at cases from the two major programs that Social Security Administration is involved in. As we noted before, it goes through the reconsideration stages in many of the states, the hearing level, and then the review by the Appeals Council. Excuse me.

We must have in almost all instances a request for review from claimants to look at their case. We do, however, have authority, as is noted in the third bullet here, for what we call own motion review. At times, more in the past than present when we have been less strapped for workload, we have attempted to do a lot of own motion review in a sense of consistency to make sure that decisions are being done in a consistent manner across the board.

We have assisted the quality assurance people within the Agency by looking at these kinds of cases. Sometimes they're based on random samples, and sometimes they are based on a quality
assurance assessment of where a specific issue seems to be having some difficulty in being decided in a consistent manner. We do look at those cases for them.

As I said, that's a falling a little bit behind in terms of our own ability to do that. By in large what we see are what claimants believe are cases that were either wrongly decided or could be better decided. And just to reflect on the latter point, I think the final question to Judge Hatfield had to do with why someone would be sitting at the hearing level, for example, if they fell squarely within the confines of the grid?

And there are cases like that where the individuals age changes. So he or she may know that as the time has changed there, that they're going to get paid for part of their benefits. They're out there adjudicating differently trying to get the earlier part to come out in their favor. So you could certainly have those kind of scenarios, and they will often arise in the age 50, age 55 category.
Okay. The make up of our staff is basically the 33 judges I mentioned, and we have a very well-established cadre of analysts that do analytical work looking at cases trying to determine, based on their appraisal, of whether the case was correctly decided. They look for legal errors in those cases more than anything. They're looking to make sure the appropriate regulations were applied. They look to make sure that the testimony was exactly what was called for in the decision.

Now, they have assistance in the sense a claimant is represented -- and I think I mentioned roughly nine out of ten are -- if those people are doing their job, they're sending us in what we call contentions. We like to see those contentions, because it gives us a heads up of where they think the case needs to be examined more closely.

We don't limit ourselves to just those issues. We look through the case for an entirety to see if it was legally decided correctly and whether, in fact, there is substantial evidence in that case.
to support the final outcome. That is the bottom line in the case.

In addition to that, we have a lot of administrative duties that fall to our staff. We control paper files which are, in fact, getting fewer and fewer. I think we're down to probably 40 percent of our files now are on paper at the council level, and 60 percent electronic.

We also prepare at this level any kind of court papers that are necessary if individuals go to court, and we provide staff for -- I think everybody has to have their example of something going on. We have a Decision Review Board still that sits and hears cases in lieu of the Appeals Council cases arising out of region one. So like everyone else who is doing prototypes, this, single decision makers, we're also juggling a few things at the Appeals Council for those kinds of cases as well.

This next slide is right out of the Regulations. This tells you when the Appeals Council will review a case. If we see an abuse of discretion by an ALJ in an area of law, or that the
conclusion was not supported by substantial evidence. If we're going to take review -- and I think you will see in a few more slides that we agree with what was done at the hearing level in the vast majority of cases. I think the percentage that's coming out is roughly a little over 70 percent. We agree with the way it was handled. We agree with the bottom line that was reached in those cases.

We are also able -- and I think this is important for you all to bear in mind. In roughly anywhere from two to four percent -- it's varied over the years -- to enter decisions at the Appeals Council level. Some of those decisions are enabled by the use of the DOT, or by testimony by a VE that was offered at the hearing level that we can use without introducing any new testimony at the AC level.

We do not hear the cases, anew basically at this level. We can, but I think you can well imagine that it would take a lot of time and resources. Much better served if we can simply make
a new decision if we need to without having to send
that case back for a hearing.

So we were looking to tools like the DOT,
like the VE testimony that has occurred at the
hearing level in order to do that. It saves
everyone a lot of effort, and I think claimants, by
in large, are very surprised, because they have
gotten a negative answer from this Agency probably
up to three times.

They probably don't expect too much from
the Appeals Council, and low and behold they get
this thick package in the mail with a nice favorable
decision or a change in decision that may be
partially favorable before them. As I say, that's
between two an four percent, which can be up to
4,000 cases a year that can be disposed of in that
manner.

We also get a lot of new material that's
filed for the first time at the AC level. We're not
a de novo hearing -- I would like to make that
clear -- but we do have an open record. When that
new material comes in, it's usually medical in
nature. It is the type of contentions that I mentioned before where people for the first time had been able to reflect on the rationale used at the hearing level, and are able to make arguments about whether it was right, wrong, or provide whatever their slant is they want us to look at.

The new material enables us sometimes to enter new decisions based on vocational outcomes. Just as Judge Hatfield was mentioning, sometimes new medical evidence comes in at the hearing level, or new medical evidence may come in where the person was deemed to be correctly light at the hearing level; but we're persuaded that based on the additional evidence either they were able to dig up for the prior period, or it is very close related to the time period at the hearing that sedentary may, in fact, had been the better outcome. And we can make a decision on those grounds. We do it in a two step phase, because it's generally a proposed decision if it's not going to be fully favorable to them.

We will tell them what our proposed
decision will be. We will tell them the rationale briefly, and we will give them an opportunity to comment and argue about whether they want to expand that period of time that we're going to pay them for.

So based on new material, we have used the DOT. We used existing VE testimony that's in the record, and we can pay cases at this level as well. So the ability to preserve those types of tools, I think, benefits both the public as well as the Agency in terms of use of resources.

DR. GIBSON: Your Honor, can I ask a brief question?

How, then, might your council be impacted if a database is created which allows for constant updating? For example, the decision that was made at the DOT at one level may very well be changed as we learn more about the job, and the database is updated.

JUDGE LOWE: Well, I think we see something like that, to reflect on the process we are existing at now where Regulations change in
mid-course, if you will. A case may have been evaluated at the DDS and/or hearing level under a prior regulation, but now the Agency has promulgated a new listing, or some type of new Regulation that impacts on the outcome of that case.

We would apply -- we do two things. Our role is we look at the decision to see if it was correctly decided under what its appropriate law or guidance was at the time. But we can also look at it, then, if we come to the conclusion, yes, would the outcome be different if we applied the new law? That's what we would do in our different scenario. I assume we would do something like that where it changes.

If someone were to introduce evidence that a specific occupation no longer existed that was listed in the DOT that hadn't been offered before, it may call, certainly, for a lot more fact finding on a given particular case even today; but it might be something we would send back, then, to the Administrative Law Judge to see if he or she wants to reevaluate it, if it was pivotal on the outcome.
of that case.

Okay. Just a reference here in terms of what we are doing in the volume I mentioned before. We see in the most recent fiscal year a little over 90,000 cases that have asked for review. We're a little behind on processing, which I am sure is something that you are keenly aware of at probably every phase. This is not where we would like to be. Certainly, our goal is 100 percent.

We need a little bit of what I call cases sitting in the pipeline in order to keep everyone active and keep things moving. Our average processing time does continue to move downward. I think if you went back several years, to our embarrassment, it was probably up over 365 days on that bottom line. Probably we have reduced it to 238 at our level.

Some of that time includes, obviously, sending materials out that are requested to claimants, waiting for them to get back any kind of a response. Sometimes we also go out for additional medical advice, and this has to do with the --
claimants usually sending in more medical advice where we may want to consult with an expert to see if it is outcome determined. Some of the cases, then, can be paid at a listing level, and are paid at a listing level if they can be. So the time isn't just unused time that's sitting here. I think it's value is being used by all sides.

This is in the most recent year. What happened to those cases? A little over 70 percent resulted in a denial of review. A denial of review means the individual then can go on to the courts if they wish. We basically said we agree with the outcome of the Administrative Law Judge's decision. Dismissals, less than three percent. These are cases where they're either untimely -- I don't mean by one or two days. I don't think anyone is that picky. Some of these cases are one or two years between when the ALJ may have decided the case and when someone sends in a request for review.

Of course, we always write back, again, and ask for, well, what is your good cause on this
case for being late? If we don't hear anything or
they can't establish it, such as they have been in a
comma for two years, they're probably going to end
up with a dismissal.

Another part of the dismissal ground too
is res judicata. We do get, as I think you know,
subsequent applications, prior applications as well.
If it's the same issue, same grounds, nothing new,
then part of that claim probably should have been
dismissed on grounds of res judicata. Even if the
Administrative Law Judge didn't do that, we will do
that.

Remands. Remands, roughly, 20 percent, a
little over, the most recent year. A lot of that
has to do with new evidence that comes in; not quite
enough that we can pay a case, but it certainly
suggest that the ALJ may want to reconsider part of
the period. It is where additional factors need to
be developed.

Yes, you can tell the person is getting
worse, but did they get bad enough that they have
moved down in the exertional category? Or now they
have a mental impairment they didn't have before.
We don't have VE testimony on that particular point.
This is now a whole new nonexertional area. So we
have to send those kind of cases back for those
issues to be further developed.

Generally, while we have to vacate the
entirety of a decision, since we just had a decision
in front of us, at the hearing level we are not
reinventing the wheel. They are looking at the
additional issues that we have listed for them on
the remand directive, and anything additional,
obviously, that might come up in the interim; which
is, again, new medical evidence is the most useful
thing.

But at the same time if it's necessary --
I think as Judge Hatfield said, he likes to have a
lot of VE testimony -- or VE testimony available.
It's generally true in the cases I see, at least,
when they come back up on remand if they're not
fully favorable, we will either see a medical expert
and/or a VE expert lend additional testimony at that
point.
And we are looking, as Judge Hatfield noted, to the very specific statement in every hearing decision where there is VE testimony for this clarification or reconciliation if the testimony of the VE is different than what is set out in the DOT, then, that needs to be reconciled, because that is one ground, unfortunately, we have to send it back for when that occurs.

This is generally what we might do in a case, just to follow-up a little bit more in detail for you. As I said, we deny review in the vast majority of cases. And roughly, 12 to 15,000 of those cases end up going to court.

We remand to the Administrative Law Judges. Those are some of the listed grounds, new material evidence is generally on, of the larger ones, as well as the dismissal, if you will, in the decision making that may have occurred. Some of which are -- I think some time people lose track of what hypothetical questions they ask.

I think this goes to part of the ongoing rationale and decision maker's mind, where he or she
may come into hearing for that day believing they
know exactly where they're going to put them on a
scale of exertional impairments. Then later they're
thinking about the case, some additional evidence
comes in, and they change their mind. They think
that, yeah, I did ask the right questions. And they
frame it that way in the decision, but when we sit
there and listen to the testimony in those cases, it
just doesn't quite mesh. So those cases, generally,
have to go back for clarification on that kind of
issue. As I mentioned too, we also do the
dismissals.

Our actions, if we are doing a decision,
can be fully favorable. Obviously, we can do a
totally unfavorable case, and we do those. Again,
for the context of this Panel, if somebody has
misstated a DOT cite where we can clarify it, we do
that by taking, you know, reference we get out of
the DOT, just like everyone else does. Point out,
well, they probably had a typo, because the next
digit over is the correct clarification of the job.
We may issue a new decision just clarifying that
particular issue.

So if they want to go to court, they can
go off and running with what I call a cleaner
decision. We do that as often as we can, if that's
what is called for. That would be where you only
had a limited issue, and that is the only thing
wrong with it. We are looking to do those, and do
them with increasing numbers.

We do partially favorable decisions as
well. I mentioned that as I began. Sometimes the
claimant's age changes. Sometimes it's a right
before the hearing date and the judge is not aware
of it, and we can take official notice of that and
do a partially favorable decision based on the great
Regs if they happen to fall squarely on that, or if
we have enough VE testimony or anything else to go
with. But those are always nice to do.

Okay. Here is our business process for
you, so you can consider this as you're working on
your recommendations. We receive all requests for
review -- currently, they're in writing. I think
there is movement afoot, obviously, for as much
automation and electronics as possible. So probably in the not too distant future, we can see that done electronically.

Our support staff looks for timeliness. Jurisdiction, did they come to the right -- sometimes they don't come to us -- I'm sorry, they come to us. They really should be going to judges. There is confusion out there. We try and straighten all those things out. We need to get the claims file in if it's electronic cases, and get everything together administratively.

The case is then assigned to an analyst for review, and that he or she will do a written case analysis and recommendation to either myself, an administrative appeals judge.

We also have a very able cadre of appeals officers, which I haven't really mentioned in detail. This group of individuals who is a little more than 60 of those that currently serve. Those individuals -- if a case comes out as a denial of review, which is one where we're agreeing with the judge, and one where they can go to court and have
judicial rights, the appeals officer will usually take care of those actions for us. They are able to sign those out by regulation.

We spend our time on cases that are on either on cusp, or the appeals officer wants a little bit of extra advice or experience, or the cases that need to go back on remand, any kind of decision making issue, any kind of dismissal, or any kind of action where individuals end up with no rights to go on are the cases we're focusing on, spending our time on.

Those are the cases that, for example, the dismissals that follow there, then, we get them, as well as any kind of recommended action for remand. At this point, then, it takes two judges to tango, I guess you might say. We are an appellate body. We're not just sitting initially as the Administrative Law Judge does. So it takes two of us to look at a case and agree not only on the outcome, but the language. And we do have a capacity for inviting a third judge if what we call our A and B members can't get to the same bottom
line on those cases.

As I mentioned, we review these cases very precisely, looking at -- this is like Judge Hatfield says -- most of our time is spent at steps four and five, looking at all the vocational issues.

Was the testimony accurately reflected in the decision? Were the hypothetical questions that were asked reflective of the residual functional capacity that existed? Did it include the mental demands or nonexertional demands? Were they all included in the residual functional capacity? All those kind of things are looked at carefully, and we rely very much on the DOT in doing this.

If I had one criticism of the DOT, since I have been around the Agency just slightly longer than Judge Hatfield has, it is that the print that I used to be able to read in the hard copy edition is very small. I think you should include a bigger magnifying glass if you are going to issue the item in hard copy. It is certainly a lot easier to use electronically where you can blow it up on the screen. I know, since I predate those days, I used...
to strain my eyes even years ago looking at that small print.

As Judge Hatfield also mentioned, I think the vast majority of cases that come forward do have VE testimony in it. I think it not only affords for great consistency, but a much more accurate product that we reflect on.

I put a couple of case examples in here. These were cases more where we had issued some decisions that we were able to do so based on the existing record. First one is an example of one I was eluding to where the age change is different. This is not unusual, I think, as you can imagine as someone moves through the administrative process. They may have begun at age 49, they're 51 by the time they get to the hearing level. So what may have been absolutely correct lower down has changed.

The second case example -- I was popping in here -- had to do with where the VE testimony didn't quite match the actual job duties; but we were able to find in the DOT something that was much closer and more consistent, and in fact, pay that
particular case based on use of the DOT.
And I know we do use the word a lot here
probably a little shorthandedly when we use obsolete
to modify the DOT. Certainly, it is not as up to
date as any of us would wish, but there are some
claimants out there that they do have their past
work and what they can do currently reflected in
there. For that, it does serve them well.
I'm sorry, go ahead, Mr. Hardy.

MR. HARDY: Good morning, Your Honor. I
want to make sure I understand procedurally. You
are doing a paper review of the file. If there is a
DOT inconsistency, you, as the judges, are going
into the DOT and doing the research. You are not
calling in vocational experts. Is that correct?

JUDGE HATFIELD: That is correct.

MR. HARDY: Okay. And then, if there were
a vocational problem -- I don't know what you would
call it -- you would remand it back?

JUDGE HATFIELD: No. In some cases if
we're able to determine what an outcome would be,
either to clarify -- for example, suppose the
vocational expert who testified cited three job
numbers; but when we looked them up, they weren't
correct. But we could find ones right next to them.
Maybe it was like one digit off that were the
corrected citations. Then, we would issue a
corrective decision in that instance. It would
still be unfavorable to the claimant, but at least
when the judiciary would have the case at court,
they would have a corrected record on that point.
Now, the claimant, obviously, would be
given notice of this and an opportunity to comment.
We wouldn't be taking any kind of testimony or
anything at that level.

MR. HARDY: Thank you, sir.

JUDGE HATFIELD: Yes. Ms. Lechner.

MS. LECHNER: Yes. Do you have any
documentation of the types of diagnoses or the types
of former occupations held by the cases that come
before the Appeals Council? Have you all tracked
that in any way?

JUDGE HATFIELD: When you say
documentation of the occupations, you mean the prior
work of the claimant?

MS. LECHNER: Yes.

JUDGE LOWE: I'm not sure that is actually captured electronically. We have a new electronic system that you will probably be able to get data from -- I think the last year and a half now we have been collecting data at the Appeals Council level. This is going to provide, I think, groups, such as yourself, as well as ourselves, for improvement on why we make changes, what issues we're looking at. I'm not sure it captures what their prior work was in that occupational sense.

MS. LECHNER: I was just thinking somewhere along the lines is if we had some of that information, you know, we're looking at a pretty big thing to change. If we were trying to set some priorities as a group, that some of that information might be useful. Not sure, but it just crossed my mind.

JUDGE LOWE: It's definitely in the record, because anything that's prior work, certainly in the last 15 years or so, or when we're
looking at a case is written in the record. Whether
it's electronically retrievable, I just don't know;
but our changes should be. And you should be able
to see the rationale and basis for that.

MS. LECHNER: Thanks.

JUDGE LOWE: Yes, ma'am.

DR. GIBSON: Every presenter that's come
before us has really helped, for me, clarify what
the deficiencies are in the current Occupational
Information System, and also delineated, to a large
degree, what their wish list would be or things they
wish would be present.

Judge Hatfield, for example, did a very
good job of illuminating the role that giving
information on jobs in the economy would help in
facilitating his efforts.

In addition to a large print edition, it
sounds to me like an Occupational Information System
that is searchable not just by job title, but by job
duty, by RFC levels would be helpful for you. Can
you comment on if that is true, and other factors
that might be helpful at your level in making these
determinations?

JUDGE LOWE: I think in our level, I don't think there is anything unique in the sense that we would need. Our role is different from the first levels that you heard from this morning. They are out there fact finding, looking for additional information. We're not necessarily doing that.

Claimants rarely send in any kind of vocational information to the Appeals Council. They may send in an argument about something being decided by a judge where he or she misinterpreted VE testimony, or misread the DOT, something like this. We're sitting there reviewing all that.

So I think any additional factors and information that are provided at those levels are going to be superb in allowing us to review more carefully, you know, those arguments and the accuracy. I think that's probably the important thing I would add.

Judge Hatfield, I think, mentioned one -- two big points were uniformity and consistency. I would certainly echo that sentiment. We would love
to see that accuracy too. As much as we can enhance
on that as our goal. I don't know if that helps.

Okay. The next -- I'm sorry. Go ahead.

DR. SCHRETLEN: So the new and material
evidence usually concerns a change in the
claimant -- or the claimant's medical status?

JUDGE LOWE: In most instances, correct;
yes.

The next case example we had put up here
was one that we were clarifying what the DOT had in
it. And this is one where we looked at the DOT, and
it did describe the reaching, fingering, and
handling were required by a physician.

So we determined that the individual
couldn't perform their prior work, and that
additional VE evidence needed to be obtained in this
particular case; but it is an example of the type of
cases where the DOT comes in handy, and looking
at -- anything that's -- what I would call
delineated in the DOT. Either we look at just to
make sure it's accurate, or the claimant's
representative or the claimant has pointed it out as
a question mark -- and some of them do -- and we
definitely want to look at it. So it's a big help
in ensuring as accurate a product as we can put
forth.

As I said, too, we're the last stopping
point before individuals get a chance to go to court
if they're dissatisfied with whatever final Agency
decision they have received. They have an
opportunity to go to court. This is where the
Office of the General Counsel gets involved. All
suit papers go there, as well as the Department of
Justice, which does the actual litigation and
defense in Federal District Court.

Now, we do get involved, though, after
that at the Appeals Council level, because it will
be a certain type of case where people love to keep
introducing new information. They do it in a couple
of ways. One is, they will go file a subsequent
claim.

They say, okay, I didn't get paid on my
claim that is currently out there pending. My
condition has gotten worse. I really need to get
those disability payments, so I'm going to file a subsequent application. Of course, they're updating their medical information with the Agency back at the DDS level and/or the hearing level, wherever it may be.

If they're paid on that case, then, usually what we hear back from the court -- because some of those cases sit out there one or two years, or I would regret sometimes a little longer -- is that, well, gee couldn't you be part of this case based on the rationale and that? Or look at those medical records, don't they indicate something you need to explain or explore further?

So we will sometimes have to go back to those cases, reexamine them; see if they can either be paid at our level, if it's a pay type of case; or they need further evaluation at the -- at the lower level, at the hearing level. And we will write up the agreement and remand those cases back.

There will be some cases too where we take the initiative, the Agency. Usually for the same very reason, someone has filed another claim. And
they will say well, hum, this guy is really in bad shape now. Look, he had a heart condition we didn't know about it; but that may have explained that chest pain that never was really fully developed by his doctors two years ago when we had the case.

Especially if it's a listing level allowance at the DDS level. When we become aware of that, either at our level or at the General Counsel level, we will take that case back and see what we can do with it. So the work doesn't necessarily end when it does go to court.

On those cases that necessarily we may not have gotten an outcome that the court agrees with, the court may send it back to us. That's the third category here, a court remand. Out of the blue, the court says, hum, while the ALJ may have said "X," and the Appeals Council may have agreed with the ALJ, I think differently here. They remand it back to have certain issues further looked at.

I would have to say that one of them that I see, at least anecdotally, is VE testimony, where they want more VE testimony. Either there wasn't VE
testimony -- there are some jurisdictions around
that don't necessarily require nonexertional
impairments that are involved in the case to have a
VE come in and explain that the person can still do
"X" jobs with these, so it wasn't in the record.
And the court says, take it back anyway and take a
look at this.

Then, we get final decisions back, which
is the last category here where some other action is
necessary, where the court has sent it back here
saying, wow. You didn't cite X, Y, but you really
need to develop other issues here to see if the
individual is disabled for our purposes.
Most of the kinds of cases there, they
really want us to fine tune a decision and address a
specific issue, and send it back to them. I think
that brings us to the end of the conclusion by the
Appeals Council at least for this point. I would
like to thank all of you for listening to our story.
How we fit into this.

The DOT is very important. We do use it
in a review capacity; but as a review capacity to be
as much proactive as we can in terms of giving that case decision ripe as early in the processes as we can in the Agency, even if it's in our last administrative step. So anything you can do to assist us in that area is wonderfully appreciated. And if you have any additional questions, I am here now and ready.

MS. TIDWELL-PETERS: Well, not hearing anything, thank you, Judge Lowe.

We are going to break. We will reconvene at 1:15 for lunch.

(Whereupon, a lunch recess was taken and the proceedings subsequently reconvened.)

MS. TIDWELL-PETERS: Good afternoon. If everyone could please take their seats.

Our next presenter is Rob Pfaff. He is a Social Insurance Specialist in the Office of Program Development and Research. He is also a member of the Occupational Informational Development Project.

Good afternoon, Rob.

MR. PFAFF: Good afternoon. Can everybody hear me okay?
Today, I'm going to talk about SSA's prior work to address DOT concerns. So the question is, as we move forward, what are SSA's problems with the DOT? And a lot of this has already been touched on by some of our previous speakers. However, I'm going to cover these points.

Obviously, we know that the DOT does not include the mental cognitive demands of work. We also know that there has been no substantive update since 1977, precluding the minor revision in 1991; and that the DOT is no longer going to be updated by the Department of Labor. We also know that the DOT does not include current jobs that are now present, particularly, in fields such as information technology, biotechnology, things of that nature.

These jobs which have become abundant since the last revision in 1977, the last major revision.

We also know that the DOT reflects more of an industrial economy, but the U.S. economy has now become more service and technology oriented. So the question becomes, what has SSA done in the past?
What options has SSA considered with this problem, and what are we going to do next.

As you can see here, we have a chart, a rather lengthy chart of a bunch of initiatives that have been undertaken since 1996 through 2006; and these various activities really can be categorized in two ways. We have SSA's formal evaluation of O*Net and the activities associated with that; and we also have SSA's research that's been conducted to look at ways where SSA could move programmatically away from a dependency on the DOT.

I'm going to run through some of these items here. This is a -- if you can look at those seven items and recognize that each one probably represents hundreds of -- well, really, culminative of all those action points there represents hundreds of pages of research that's been conducted, and issues and ways that SSA can deal with this problem; and I'm going to try to summarize some of these for you.

We began with our first bullet up there, disability redesign process. Basically, SSA
considered the -- what the baseline functional requirements of work would be, and an attempt to incorporate into the listing of impairments these functional requirements for work. And one thing that SSA found while exploring this possibility was that really this particular process was not sensitive to the nuances needed in evaluating work demands and functional requirements.

We also have worked in conjunction with the Institute of Medicine for research directed towards the measurement of people with disabilities to develop better measurement surveys, to collect this occupational information.

IOM noted the importance to distinguish among construct of impairment and functional capacity and work requirements; and they noted that the current ability to do so was limited. They recommended that SSA continue research to collect job functional capacity information, and improve the measuring ability to work.

Also, SSA has conducted a formal evaluation of O*Net for use in its disability
programs. I'm going to touch on some of the findings that SSA made with this formal evaluations. But the study, in effect, identified concerns with the aggregation and the ratings descriptors for work and work requirements that were found in O*Net. SSA has also worked with the IOTF, or the Inter-organizational O*Net Task Force, which was a cooperation of private and public sector users in the Department of Labor. DOL shared some of their experiences in completing the first version for actually checking data used for the first version of O*Net, and shared some of these experiences with their design instruments and strategies for collecting their occupational data. DOL and SSA recognized the value of using O*Net as a data system where possible, and where gaps exist, developing additional data elements. SSA and DOL maintain contact for our current research efforts. I know that Sylvia and Richard have conducted some outreach with Department of Labor recently that let them aware of our future research activities.
I also want to touch on what Dr. Mark Wilson raised earlier. We have conducted some research into incorporating functional vocational expertise to assess really functional capacity. This consisted of a model that was developed to triage, so-to-speak, individual impairments and send them to the appropriate medical and vocational expert to conduct an individualized functional capacity of that individual; and that, obviously, is resource intensive.

And of course, we have also conducted some research into some web clone technologies where data -- internet data was collected and organized in a DOT manner, which revealed a plethora of challenges. Mainly, that the classification of jobs by individual companies varied greatly. And also, when organizing that data in DOT format, it still left us without a mental -- a capacity for evaluating the mental impairments among claimants.

It's rather exhaustive. We can do, actually, a whole slide just on our past research. It's pretty extensive.
So our previous options that we have considered, let's get help from the Department of Labor, obviously. The Department of Labor, which created DOT has gone to -- has gone on with the development of the O*Net. O*Net we have evaluated and deemed as unsuitable for our disability determination process. As far as updating the Dictionary of Occupational Titles, obviously, as we have indicated previously, the DOT was not created for Social Security disability evaluation purposes. It's not ideal for SSA, and also does not contain a mental cognitive demand of work.

SSA -- can SSA abandon the DOT completely, was another consideration. The problem, obviously, with that is the extensive disability policies and guidelines that we developed over the years that have tied our disability program to the DOT; and Tom Johns touched on a lot of this yesterday.

The other option, can SSA create its own occupational information system? That's why we are all assembled here.

DR. FRASER: Robert. I just have one
question.

MR. PFaffen: Sure.

DR. Fraser: Does DOL have -- is the North Carolina Occupational Analysis Center still in existence, or are there none, nationally?

MR. PFaffen: I do not think that there are any available or still in operation. We can certainly make an action item for that and come back to you.

MR. Woods: The only one in existence is in North Carolina.

DR. Fraser: It still exist?

MR. Woods: Yes. But that center is O*Net based. It still can give you a lot of background of the DOT, but that's actually --

DR. Fraser: Oh, I see.


DR. Fraser: Thank you.

MR. PFaffen: Okay. So why can't SSA -- I guess the million dollar question -- why can't SSA use O*Net for its disability programs?
First of all, the big problem for us is aggregation, and that the aggregation is too high. Again, we go back to the 12,000 DOT job titles which become with O*Net 900 occupational units. To give you a better example, our next slide give us at the very top the O*Net description for a construction carpenter, and the job description of that particular occupation.

Now, below that are 39 occupations that contain that description in the DOT. All to some variation, of course. But if we were to attempt to find this job in the DOT, we would have that list below. And what may be a little difficult to see is next to each occupation you will see SVP -- parenthetical SVP, and also the exertional classification of medium, light, heavy.

There is quite a variation as you can see, and they range from SVP being what would be considered to be unskilled, to an SVP of seven, which would be considered skilled labor. So in terms of skill level required, there is a large degree of variation. And also in terms of
exertional requirements, there is quite a degree
from -- we have medium to light work indicated
there. Actually, we also have heavy as well, and
very heavy; yeah.

So again, the next slide details our
findings that we have an SVP or skill range from two
to eight that the jobs fall into the same
classification under O*Net, but for -- in DOT we
have the job of trimmer and shipwright contained in
that list; and obviously, there is quite a variation
there, skill level wise, from SVP of two to SVP of
eight.

Some additional concerns, the ratings and
descriptors for work and worker requirements are not
tied to observable measures of human function, such
as what is found in medical evidence. So what does
that translate into? Our next slide gives us an
idea of what we see with an O*Net description of
construction carpenter. And I'm going to put on the
hat of a disability adjudicator. And if I'm an
examiner in a DDS and I'm looking at this
information, I'm unable to determine what the

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strength requirement is, what the skill level is, and whether, for example, you -- what your exertional requirements are in terms of things such as stooping, balancing, climbing, crouching, crawling, things of that nature; which is currently on our RFC form or what we consider for residual functional capacity.

So I would not be able to look at this information and determine, using our current methodology for assessing residual functional capacity, whether -- if I had a claimant with a light RFC, whether I could allow this person to transfer into this job, or whether this person would be unable to transfer into this job.

So this is the difference between a -- for us, really allowing or denying a claimant; and we really don't have enough information here to make that determination.

MR. WOODS: Question. This goes back to the Commissioner's guidance yesterday. One of the questions I have when we -- the box that we're working in -- I think that was a good point to
make -- do we see it as hands off in terms of looking at issues such as sedentary, light; or do we feel that those are still going to be driving things that have to be in the system? Or maybe that's something to be answered down the road. I'm just curious, because that has some significant implications in terms of what we might look at down the road.

MS. KARMAN: I think, actually, we did talk about this, at least, I think, I met with a couple of people on the Panel that I talked to about this yesterday, because a similar question came up. I think that amongst ourselves on our team, as well the OISD workgroup, we're thinking that, you know, the Panel really should look -- take a fresh look at what kinds of physical attributes, you know, our workgroup is going to be wanting to recommend, as well as what kinds of things our workgroup -- our Panel here will also be thinking will be valuable.

For example, it may not be necessary anymore, given that there is electronic -- we have
much more data space available electronically than
we used to. May not be a need to have things rolled
up to sedentary, or rolled up to light if we know
what the occupations require and what the
individual's past work entailed, then, we know what
those measures are. That may not be necessary.

On the other hand, there may be an
operational need for -- you know, just for the
shorthand. For our adjudicators it might be
valuable for them to know that, yeah, okay, the data
may have been collected at a level that is
appropriate -- an appropriate level of specificity;
but it may be better for adjudicators to have things
put into those kind of groups, as long as the
definition is made clear to the adjudicators what
that means. Anyway, the answer to your question is
yes, I think those things are open.

MR. PFAFF: As a corollary, it's also -- I
think part of your question, I think, reveals
that -- how tied we are to those classifications
currently, not to say that we're necessarily going
to be going in that direction in the future. But if
we're looking at our current methodology and we look
at something like what we have with O*Net's
classification for low anchor, medium anchor, things
of that nature, we're tied into those aggregate
classifications to make sure assessments. So that's
a good point.

MR. WOODS: Thank you.

MR. PFAFF: Sure. Any other questions?

And that is the end of the presentation.

MS. TIDWELL-PETERS: Thank you, Robert.

Our next presenter is Deborah Harkin. She
is a Social Insurance Specialist in the Office of
Program Development and Research. She is also a
member of the staff of the Occupational Information
Development Project.

Welcome, Debbie.

MS. HARKIN: Hello, everybody. A lot of
what I am going to go over are things, I think, have
already been brought up over the course of the last
couple of days. I am the next to the last presenter
you are going to hear from this meeting. I think
it's a good time to start summing up a little bit of
what we have already learned, what we know, as we
begin to look forward and start this process of
developing our Occupational Information System.

First of all, we invited all of you as our
panel members because of your direct diverse
backgrounds in your areas of expertise. And we want
to encourage you to bring your area of knowledge,
you know, to the development of this Occupational
Information System.

But we have to find a place where we
start. We have to have a common ground. And there
are some things that we know that we need and some
areas that -- that we have already established that
have to be present in our system. We have
boundaries that are established by our laws and our
regulations, and we have to work within -- within
those boundaries.

Before I go any further, I should add that
in your binder there is a paper that's entitled
"Overview: SSA's Legal Program and Technical Data
Occupational Information Requirements." I am just
giving you kind of the "Readers Digest" version.
That will give you a little more detail about what I am going over.

Okay. A good starting point for Occupational Information System is the definition of disability in the Social Security Act. This might look familiar. Yesterday in Sylvia's presentation she mentioned the things that compel us to use the DOT. These are also things that we have -- that are still here, that are still present, and we still have to acknowledge in our new system.

Our Occupational Information System must reflect the national existence and incidents of work. We have to reflect the requirements of work in order to determine at steps four and five the essential evaluation whether a claimant can perform work. We need to know what the work requirements are.

And thirdly, our Occupational Information System has to be legally defensible. As you heard yesterday, DOT has been challenged in court and it has stood up to court challenges. Our Occupational Information System will be challenged and it needs
to also be able to stand up to this.

Any Occupational Information system that we develop that doesn't meet these three requirements would require changes to the Social Security Act.

What else is important for us to note about our Occupational Information System? As you have already heard, it has to bridge the medical and vocational analysis in our disability determination process. The DOT has served that role. It has been a tool that we used to bridge medical and vocational analysis. We have to have a system that can continue to do this.

We need to do descriptors for work and worker requirements that are relevant to our disability evaluation process, and that are readily associated with human function as shown in medical evidence. Hopefully, down the line at some meetings you will have the opportunity to look at the type of information that we get from claimants's doctors so you can see what disability examiners have to work with.
We do get some people in who have long medical histories that go see top physicians, and their concerns are well documented. And then we have others where the information is not so good. So you will see how challenging it can be for our disability examiners and our physicians to work with the information that's in a file.

This is just a little summary of the rest of the information that I'm going to cover. We just have in some areas, just kind of an idea of some of the things that we're going to need and some areas -- some things that we're not going to need.

First of all, our classification system. As you know, the Standard Occupational Classification System is a starting point for O*Net; and it's also going to be our starting point. Obviously, we are going to need to be a little bit more detailed than this. But the question that we need to ask is where do we start? How do we start this process of establishing the classification system that's going to work for us?

And we also need to be able to plan for
the future, for changes in the economy, and the
types of job that are out there; and we have to make
sure that our system has the ability to evolve with
time, that we can update it as it's needed.

This is the same O*Net occupational unit
that you saw in Rob's presentation. This is
significantly broader than what we see in the DOT;
and we know that we're going to need to have a
system that's more specific than this.

As Rob pointed out, you know, this varies
from -- the strength level varies from medium to
very heavy, and there is a range in the skill level.
From what you already learned about in our
disability process, you know we can't use a system
like this.

This is a typical DOT entry. This has a
lot of information. Are we going to need to keep
this much information when we develop our new
system? What from a DOT entry can we keep? What's
useful for us as we begin to go forward? Are we
still going to need to classify 12,000 jobs?

I think one thing that we have established
is that our system is going to lie someplace between O*Net and the DOT.

What is going to be easier for us to do? Do we start from the top and work our way down? Or do we start from the bottom and work our way up?

And once we define our classification system, how do we support or defend where our breaking points lie? We're going to need to defend the validity of our system.

Core tasks. One of the most important tasks that's going to be facing you as you all begin your deliberations between each other is terminology. I'm new to this whole occupational analysis thing. My background is in the disability program, so trying to learn the terminology has been challenging. I have also learned that sometimes that even between people who are in this profession, that there is a lot of, you know, differing use of terms.

So as a Panel, you are going to have to come to agreement with how you are going to use terms. And this is something that we will have to
establish as part of our system is how we define the
terms that we come up with.

For the purposes of what we have here,
we're using the residual handbook of analyzing jobs
terminology. It states that a task is one or more
elements, and is one of the distinct activities that
constitute logical and necessary steps in the
performance of work by the worker. A task is
created whenever human effort, physical or mental,
is exerted to accomplish a specific purpose.

We're going to need our system to define
what the core tasks are for jobs. This is just an
example of, you know, typical help wanted ad. It's
not too different from what you might see in a DOT
job description. When you see something like this,
what are the core tasks? What's necessary for the
performance of this job as an accounting assistant?
And what differentiates an accounting assistant from
a senior accountant or bookkeeper?

I am reminded of what the Commissioner
said yesterday when he was talking about how all of
us here -- pretty much the physical demands of our
1 jobs are pretty similar. So that's another thing
2 we're going to have to determine is, you know, how
3 we group jobs and how we separate jobs.
4             The requirements needed for work. For
5 most measures of requirements of work, we're going
6 to need to know the minimum levels. Range can
7 differ for other measures such as lifting, handling
8 and fingering. As we determine what our content
9 model is for all the different things that we
10 measure, we're going to have to establish what our
11 ranges are going to be. Keeping in mind it's going
12 to have to be something that's appropriate for use
13 in our program.
14             Observable measures. The constructs of
15 the different activities we measure to describe a
16 job, such as stooping, crouching, and walking. The
17 constructs we develop to describe work demands must
18 be objectively measurable; and these measurements
19 must be capable of being validated. It is easy to
20 observe and measure how much walking is involved in
21 a job, but how do we measure concentration. If we
22 are able to make the constructs objectively
measurable, then, we should be able to withstand legal challenges.

So basically, the challenge that's before us, one of the most important things is incorporating those cognitive and mental demands of work. You know, as we have said time and again, one of the main reasons that -- we can't just update the DOT. We need to know this information. That's something that is necessary for use in our program. But we're going to need to be able to find a way to measure and validate these mental and cognitive demands.

This brings me up to just what we were talking about a few minutes ago, I believe, the deconstructed measures. If we use deconstructed measures, it is going to be easier to associate demand of work with the claimant's residual functional capacity. To a disability examiner we know what the term "sedentary work" means. We know that it involves walking, lifting, standing. We're going to want to try to avoid those in establishing our Occupational Information System.
The DOT uses global constructs. We want to try to avoid this if at all possible. The simpler we make our occupational system, the better.

How many constructs are we going to need in our occupational system? We can start, as I said, with the DOT and O*Net, and try to establish where in between this is going to lie.

From the constructs that are in the O*Net, just from looking at those, we have determined that only about 25 percent of those would pertain to disability evaluation. But the O*Net does use some good descriptors of the cognitive and psychosocial demands of work that we might be able to use in our system.

One of the problems that we have, though, with O*Net was the way that they collected their data. O*Net primarily use job incumbent surveys, to which there was a low response rate. Some of the data were collected through job analyst estimates; but they proved to be -- to have poor interrelated reliability. And in a sampling methodology it is not sufficient to capture the full range of skill
levels of work in the U.S. economy.

The ideal number of constructs for our system will be the minimum needed to determine a person's ability to work. As you have heard, disability examiners are faced with very heavy workload. So we don't want them to have to do any more than is necessary to establish whether or not a claimant is able to work.

We're going to have to keep in mind what type of sampling methodology we're going to use. It has to be capable of capturing the full range of skill levels in jobs. We also need to capture a pertinent selection of work in the U.S. economy. This has to include jobs that are unique to certain areas of the country, like an abled body seaman or a professional diver. We must also have the ability to keep our information current and accurate as jobs change over time.

A few more requirements that are pretty obvious. We need to develop instruments to analyze occupations that will produce the same results for different raters. We also must use data collection
methods that ensure reliable, accurate, and comprehensive results; and our data must be reproducible. Again, if we can make sure that all this is present within our system, then it should be a legally defensible occupational system.

Finally, we do need to take notes of jobs that have accommodations that are generally available in the particular job. For example, let's say, a grocery store clerk, the cashier has a note from the doctor saying that they can't stand for eight hours, and the grocery store might accommodate that by allowing them to sit on a stool when they do their job; or somebody who has a visual impairment who has the screen reader who can read information for them.

If we're able to collect this kind of information, it's not only helpful for us, it is helpful for vocational rehab purposes.

Finally, we need to use terminology that's consistent with standard medical practice.

And that is pretty much it. This is just a few things for everybody to think about to help.
get started. Any questions?

            MS. TIDWELL-PETERS: Thank you, Debbie.

Thank you.

            We're going to take a 15 minutes break.

We will come back at 2:15 to start our next
presentation.

            (Whereupon, a recess was taken.)

            MS. TIDWELL-PETERS: Hello. We have had
an opportunity to speak with Sylvia Karman, our
panel member, and also the project director. She is
going to give us a presentation now on some of the
more detailed plans in how the Agency will develop
the occupational information.

            Sylvia, thank you.

            MS. KARMAN: Okay. Thank you, everyone.

            This is the last presentation you will be
getting, at least for this meeting, from Social
Security. And I will hope to make this not painful.

In any case, one of the reasons that we wanted to
give you this overview is to help orient you all a
bit about the entire project.

            First of all, the overall project will
involve a series of stages that are being carried
out or at least led by different offices throughout
Social Security Administration. Right now, the
project portion that you are seeing and that you are
going to be involved with is the research and
development portion, which I will also cover; but I
just thought I would mention that by way of
orienting you. That, you know, what I'm going to
talk about is kind of the whole enchilada, from soup
to nuts. Really bad metaphor, I know.

So exactly what is SSA's plan? And one of
the ways that we like to -- that makes it easy for
us to talk about, especially for our monitoring
authorities and the Office of Management and Budget
and others is, what are our short-term plans? What
are our long-term plans?

In the short-term -- and you have been
hearing about this, and several of you have asked
about it -- we are looking to find out what is
available currently that we could use in the interim
while we are working on our long-term initiatives.

And then, of course, in the long term there is a
whole series of initiatives that I am going to talk about.

So for the -- I have to move these things. Really do have to press hard. There we go.

Short-term project goals and status. So what are we looking to do in the short run? We right now have -- one of the goals of our short-term project is to find out if there are -- if there is private sector -- existing private sector occupational information that basically follows the structure -- the data structure of the DOT that could be plugged into our program, okay. Because that might help us, you know, as we're moving along with the Panel and our project work, and the research and development area that might give us some breathing room with regard to, you know, how current can we possibly be.

So what we did do was back in the spring, we issued a request for information and basically queried the marketplace to find out what's out there. Is it worth our going out to put a request for proposal on the street? And we did get some
information back that indicated that it would be
worth our while to put a request for proposal on the
street, so we did. And basically, we went out for
two contracts.

One is for a contract that involves the
private sector entity that is producing this, you
know, existing software, this existing database of
information where they -- in their normal business
processing, what they normally do to provide
disability insurance providers, perhaps,
compensation of people who do compensation analyses,
Voc rehabilitation specialists, VE; you know, people
who are gathering that kind of data to help those
individuals, and are doing so by using the DOT data
structure. And just going out -- and their clients
are coming to them and saying, would you please
update and take a look at this particular type of
work. We have got several clients, who, you know,
are working in this area and probably could use a
update there.

So there are a few organizations around
the county that are doing that, and we selected one
who met the criteria of our request for proposal. And then, we hired another company to do an
evaluation of that -- of those data and their
methods. Just basically, to see if those methods
and the data would meet our near-term requirements.
The near-term requirements, quite frankly, you know,
do they help us with our current program, our
current policy, and the way we currently use the
DOT?

And does it, in fact, enable us to point
to the RHHJ since that was what the Department of
Labor was using at the time that the original -- not
the original, but the last update for the DOT was
done.

Understand, we recognize that we are not
saying that by making those our criteria for the
short-term that that is absolutely the criteria we
want for the long-term. Just, if you are going to
plug something into your current program with no
questions asked, and no need to go out and make
changes to our residual functional capacity
assessments, and a series of other forms and
processes that Social Security has in place, it
would be good if it really, frankly, was invisible
to the user what was different about it. Okay. So
that's really all that's about.

We are expecting to get a report from the
contractor ICF -- ICF International is the group
that is doing the evaluation. And Career Planning
Software Specialists, Incorporated out of Michigan
is the group that we -- whose data and methods we
are evaluating. And we understand that they are,
actually, a bit of head of schedule; but their
report is not due to Social Security Administration
until the end of May. And at that point we will
take their evaluation results -- of course, we will
share them with the Panel. And we will need to
discuss within Social Security how we want to move
forward, depending on whatever the results are.

So, for example, if the results are, you
know, woo, hoo, this is just fine. It meets your
criteria, you know, almost 100 percent or whatever;
then Social Security will have to figure out, okay,
how do we want to -- you know, how do we want to
navigate this? How do we want to implement? We need to notify our adjudicators. Probably are going to have to work with one of the offices that is part of our Occupational Information Systems Development Workgroup to put in, perhaps, a notice in the Federal Register saying, hi, we're going to begin using this updated data, shouldn't make any difference, you know, in terms of outcome for claims, because it's very similar, anyway.

Whatever.

So we know we need to do some work to get implementation accomplished. And that -- we are planning on having -- if, in fact, the outcomes of the evaluation are positive, we're looking at having something to plug into our system before the end of the calendar year.

So that's -- yes, ma'am.

DR. GIBSON: Safe assumption, though, that their update includes the cognitive content?

MS. KARMAN: That is exactly correct. In fact, you are prescient, because I was just about to get into in a few moments why this would not be our
long term. That doesn't mean that there won't be
aspects of this -- the short-term project that may
not inform the long-term. I think there might very
well be things that might inform us. But, in fact,
the reason this isn't the answer is because it
doesn't have the mental cognitive -- basically, it's
the DOT. And there are other problems with the DOT
aside from just the fact that it doesn't include
mental cognitive things. Yes, sir.

DR. SCHRETLEN: Just ballpark, how many
occupations will they be updating?

MS. KARMAN: That, we don't know yet.
We're waiting to hear back from the contractor about
what is exactly -- what's been updated. You know,
what constitutes an update, for example, you know.
What do they do with something when they have
determined it's obsolete? How did they determine it
was obsolete? You know, this kind of stuff.

So it would be premature for me to tell
you, because, I mean, we have some idea of what the
contractor has told us; but since that hasn't been
validated, you know -- the answer is, I don't know.
DR. FRASER: Sylvia, do they take on the whole DOT?

MS. KARMAN: No. That's the other thing I'm glad you brought that up.

Everytime I mention that -- everytime I go over this short-term thing, someone asks that question. I am glad you did.

We are not anticipating that -- there was no one out there that was just, you know, updating everything, all 12,000 plus. I mean, that just wasn't happening. Or even a huge amount of the Dictionary of Occupational Titles. Part of the reason for that is, I really believe -- this is just Sylvia talking -- is because there is really -- there is a market for updating certain kinds of data, but not for others.

So, quite frankly, people are going to do what is useful for their business, you know. It remains to be seen what can be done with that.

MS. LECHNER: Sylvia.

MS. KARMAN: Yes.

MS. LECHNER: Does that mean that there
are certain variables within the DOT that this
company updates, it's certain they don't; or if they
update a job, are they updating all -- say, all of
the different variables --

MS. KARMAN: Right.

MS. LECHNER: -- and aptitudes and
everything for the entire job or occupation?

MS. KARMAN: Right. What we asked the --
that was one of the evaluation criteria, was for the
evaluator to determine what is it exactly among the
DOT elements that they are updating?

Because, yeah, I mean, they may not be
updating everything. Because maybe there isn't a
big call for that. It may not matter to us in the
long run anyway, because we don't use, for example,
you know, temperament. So -- but we would want to
know whether or not those things have been updated
so that we can report accurately what it is we are
using, because we are, in fact, you know, beholden
to the public. We do have to be able to explain to
the public what it is we are using, and how it
differs, if it differs.
So that is one of the criteria is to determine what exactly has been updated, and what -- if there are areas in which they aren't updating something like aptitudes or something, you know, okay; you have to let us know.

MS. RUTTLEDGE: Sylvia.

MS. KARMAN: Yes.

MS. RUTTLEDGE: Lynnae Ruttledge. Just one quick question. This is, obviously, of interest to all of us. What was the driver for them? Why are they updating it?

MS. KARMAN: Oh, okay. Best as I can understand these businesses do this, because they are -- their customers tend to be people who do long-term compensation for like -- long-term injury or long-term disability compensation. They frequently work with disability insurance -- or insurance companies that have disability programs. They also sell their products to vocational experts, the people who do vocational rehabilitation assessments. So that's basically what's driving it.

One can also imagine that, you know, it's
probably going to be certain kinds of work that they
are going to be more likely to be updating, because
that's where the requests come from, so.

All right. So the long-term project
goals. So really, the long-term project, then,
involves developing an integrated Occupational
Information System. When I -- when we use the word
"system," we really mean a classification.

Will it be computerized? Of course. I	often feel like I need to say that, at least so --
because it's being recorded -- that this isn't just
about computers. But we are looking into developing
something integrated that is tailored for Social
Security Disability programs. And therein, really
lies the big difference between what we need to do
versus what, you know, other federal agencies may
need. We get this question quite frequently, hence,
the reason why, you know, from -- in our previous
presentation we did mention, you know, what some of
our concerns are with the O'Net.

We will also be looking at the DOT, and
what kind of concerns we have with that. Because,
you know, if we are going to move forward, we need to know where everything -- where all the bumps and everything are; and what things are worth taking forward.

Also, as part of this long-term project, Social Security Administration will need to be taking a look at its disability policies, specifically, the ones having to do with how we assess residual functional capacity, how we make medical vocational determinations. We have really no intent to change our sequential evaluation process.

But there are going to be some things that the Social Security Administration will want to take a look at and revise and update as we begin gathering information, or even sooner. But that portion is not necessarily -- that's not what the Panel will be focused on, although, the Panel will from time to time bump into issues that are policy related, and we will certainly discuss them. And much of what we will do will inform policy, but we are not deliberating on policy issues for the
Agency.

Then, of course, we will also want to establish an ongoing process to keep the occupational information and our policy current. Because, obviously, the two can inform each other. I know that I have been overhearing people talk. So I know that several of the panel members are already thinking in terms of well, you know, whatever we do has to be something that you can, you know, have an ongoing process that's, well, frankly, realistic to keep current.

And also a point of, you know, making it just salient in case it hadn't already been made before -- which I think it has several times -- the project assumes no change to the Social Security Act. So you know, all the little blurbs that we keep showing you about the definition of disability remains in tact. Okay.

So what do we mean by integrated? I guess the only reason I kind of wanted to go through this is just to give you all a sense of how we expected these project stages to hang together. Really,
we're looking at methods to develop this Occupational Information System where we are using more than one method, perhaps, you know. We don't necessarily want to rely on just one approach, one data collection plan -- one approach in data collection; one approach in terms of measurement. There may be different things that we need for different kinds of constructs, and the types of elements that we want to collect. So, you know, we will certainly be discussing those as we move along.

For example, you know, on-site job analysis may be the exact things you want to do with certain things. Then, maybe -- with other things you may not wanting to be doing that. You may be wanting to do some other kind of approach that a number of you have already brought up with us, so. And largely that's so that we don't really back ourselves into a corner where we're relying on just one method that, you know, does -- may not pan out over a long period of time or because it maybe doesn't suit every type of data element that we want. Anyway, I will talk a little more about that.
later.

Where possible, we also want to build on the relevant elements that are in the DOT or O*Net if -- regardless of whether it's methodological or not. There may be some methodological issues that we want to take a close look at. Because there is just no point in reinventing the wheel. If there is a wheel that exist, that's something we want to work with. Yes, sir.

DR. WILSON: Do you have an idea of what's relevant?

MS. KARMAN: You know, we're working on that, in fact. We are pulling together some aspects of things that the users are interested in. So everything from, you know, looking at it in a rational sense or an analytic sense, all the way to, you know, okay, from a methodological sense like, perhaps, from your perspective what kind of things we want to do. I think that the Panel will be very instrumental in helping us with that.

DR. WILSON: To define what relevance?

MS. KARMAN: Yes, absolutely.
DR. WILSON: The other thing, though, is from the end user perspective, it would be very nice to know -- because when you go out and tell people, we have got this new system coming. It is going to be great. It is going to fix all your problems. What I would be interested, in terms of their reaction is, well, that's great; but for God sake, whatever you do, don't change --

MS. KARMAN: Blah, blah, blah. Right, yeah.

DR. WILSON: Leave that alone. We like it. It's working fine.

MS. KARMAN: Okay. We did -- I was going to talk about this a little later, but you bring it up now; I will just bring it up now.

One of the things that our workgroup had -- was working on just about a month ago, then, Debbie Harkin was pulling together some of the last few comments we were getting; we did do a limited survey of some of our users to get some idea of what kind of elements, for want of a better word, do they like that they are accustomed to seeing on an RFC or
an MRFC; or if we were to create new -- go out and
collect new data that is cognitive and mental, or
other data that are, you know, physical demands,
what kinds of things would they like.

We have been trying to sort of get out
there and try to present them with something, and
try to get their feedback. We're also thinking we
may need to do some more structured approach to
that; perhaps, some kind of focus groups and things.
But we're working on that; but thank you.

Anyway, so in the end, we then want to
integrate all of this into Social Security's
disability process, which, you know, eventually
Social Security will have -- you know, we're
becoming far more automated. That will be something
we will be wanting to do.

So basically, okay, let's just get to
these project stages. I highlighted the research
and development one, because that's, frankly, the
one that we are going to be most concerned with.
It's good for you to know what the other pieces are.
We have already begun the outreach.
I think as -- just as an overview here, one of the things that we are trying to keep in front of us is that we hope to be able to use -- as soon as Social Security begins to actually obtain data that are usable, we really would like to be able to begin doing that, even though there is some policy development underway. So to the extent that we can, you know, have -- make use of some of the success that we have, I think, we want to be able to do that as soon as possible.

So let me see. Okay. We will just move on to the next.

MS. LECHNER: Sylvia.

MS. KARMAN: Yes, ma'am.

MS. LECHNER: By outreach, can you expand a little bit on what you mean when you say "outreach" on that first bullet there?

MS. KARMAN: Okay. Well, I have moved on to the next thing, and we will do that. At least I hope to do that. All right.

MS. LECHNER: I didn't look.
MS. KARMAN: That's okay.

I mean, basically, the outreach that we're talking about at the moment is, you know, slow and steady wins the race. What we have begun doing is, you know, initiating, once again, some of our contacts with some of the private sector professional associations that are stakeholders in this process or that have a lot of expertise in the area. Many of you are members of some of these organizations. So we're definitely getting back out and meeting with these individuals.

We have also begun the Occupational Information System Development Workgroup, which is a form of outreach within our Agency. And of course, getting -- will enable us to get to our users across the nation in a more formal manner. An ongoing way of keeping all of the stakeholders involved. And of course, there are others -- you know, other monitoring authorities, you know, Congress, other individuals who are interested in what we're doing. And so part of what we're doing is getting back out and talking to people.
What grew out of this concept of outreach was, of course, this Panel. So, you know, the fact that we are meeting and it's a public meeting is a big feature of the outreach.

So does that answer your question, Deborah?

MS. LECHNER: Yes.

MS. KARMAN: Okay. So just real briefly, I'm going to talk a little bit about our internal workgroup. Many of the members -- all the members are here today. And it is a mechanism by which the components in Social Security will work together with the Advisory Panel. They are also going to work closely with our project group. So you know, our group within Richard Balkus's office works closely with this workgroup. That kind of helps us keep it real.

As we're moving along, we are constantly having sort of that barometer of, you know, well, that's really a great idea, Sylvia; but you know, it just won't work in Iowa. You know, like normal people just can't use this.
So I think that's going to be something that's going to be very helpful to us is to kind of help us keep grounded. Also, we will make sure that, you know, all of the offices that need to be involved in Social Security can help move things forward in a manner that's organized, you know, and as efficiently as possible.

And you know, all of these individuals will be available to assist us as we move along, and as the panel members are -- you know, as we're identifying questions and things.

A lot of the staff work that will be coming from the very questions that are raised by this meeting, for example -- a lot of it is going to get farmed out to my team. Some of it will, quite naturally, be farmed out to the Occupational Information System Development Workgroup, because some of those things may fall into their camps. So we will be working closely.

Then, of course, comes the Advisory Panel; and you know, we have been talking a lot about the work that we're going to have in front of us.
Tomorrow morning we're going to have a chance to just really devote some time to what we're going to move forward with first; and you know, how we want to -- how we want to approach things.

We did put into your package, which is, I think, at the back of my presentation -- it's basically an outline. And we keep referring to it as a road map. It's iterative.

The whole point of that road map is to just give you all an opportunity to understand where all the documents fit into the picture that we have given you guys so far; and what kind of other things we're thinking might be necessary for the future.

You know, how is it that we plan to work with the Panel? How will the Panel be interacting with Social Security? And how is it that, you know, you are going to be dealing with the various issues?

So for example, for the first assignment before the Panel, which is to consider, you know, recommendation -- to deliberate to make recommendations on a content model, you know, we have given you some materials. One of them is a
content model -- "what is a content model" paper.

Just to orient folks, and to put some questions before you as sort of a prompt, you know; what kinds of thing might we want to be considering?

And then on top of it, were -- we already have a drafted Social Security's proposed plan for how to go about developing a content model. What are some of the issues that the Panel or Social Security will need to consider, which, of course, in turn, the Panel will? So that kind of gives the Panel a spring board to look at what the concerns are that Social Security has. What does Social Security have in mind in the first place? And you know, what does the Panel then recommend, given your areas of expertise, and what Social Security is giving you.

So it's definitely -- really want it to be an interactive process and we want very much to provide the Panel with enough structure to help orient us, because we have a lot to do in a very short time; but we also want to be able to provide the Panel with a chance to bring their ideas.
to it.

DR. SCHRETLEN: Sylvia, I saw what is a content model. You said after that, you said there is already sort of a draft.

MS. KARMAN: There is a draft.

DR. SCHRETLEN: Is that in here?

MS. KARMAN: No, it is not. There was a place holder in your package for it. Like, last week we decided that, perhaps, given that the Panel had not met yet, and we -- not all of us had had a chance to talk yet. We thought maybe a good thing to start with would be, well, what exactly do we mean by a content model? What does that mean to Social Security? Why is that different from any other type of content model that might exist for such a classification? What are some possible questions that this Panel may want to take up?

Certainly not, you know, the full list of questions, but -- so it was just a starting document. And we have -- the other plan is -- the plan that I refer to is we're still revising that. So we are intending to share that with you all
So basically, there are two parts to the research and development, you know. What information do we need? And then, how do we want to go about getting it?

Under the portion of what exactly -- what kind of information do we need? Obviously, we want to develop a content model. We are going to look at -- I am going to call them loosely constructs. Maybe there is better -- other language to use, but for starters. You know, how do we fill in these boxes of, you know, the constructs; and perhaps, the elements that are directly under those.

We certainly don't expect the Panel to develop the instrument. So we don't expect the Panel to get down to the level of detail where we're getting down to the item level as some of you would say.

We're also wanting to do an initial classification. We do have some ideas around that, which we will share with you all. And you know, so that might help us get moving in that area as well.
And then, of course, we will want to be developing and testing instruments. So one of the things we want to do in testing the instruments, for example, something that we, among our team, has been loosely calling an RFC study. One of the instruments -- basically, as I am understanding, it is really going to be like two instruments here. One is to go out and get the job -- to actually evaluate the job, right? The other instrument is, well, evaluating the individual or looking at their function. And as I understand it, this is like one coin with two sides to this coin. So if we look at, perhaps, we would want to study the person side instrument first. We probably would be developing them both very closely together; but we probably want to look at the person side first to see what the effects of using some of these new elements, these new constructs, or you know, might be in our process. So we can see what are the effects? Are the adjudicators having trouble understanding it? Are the doctors having trouble understanding it?
You know, is this leading us into an area where we may have program effects that were unintended?

So this will enable us to go back and refine that instrument that, in turn, refines the job analysis instrument. So these are some of the ideas that we're having about what we think needs to happen in the order that seems like it would make sense to do them. Again, you know, we're going to need your expertise in helping us determine if, in fact, we make sure we don't have the cart before the horse.

Then, there are some other studies that we are intending to do. I guess, for want of a better word, perhaps, some elements of studies that we have been talking about over the last day and a half. For example, the occupational study. We really think we have -- we really believe that it's necessary for us to look at our claims and determine what kind of past relevant work people have. Perhaps, what their residual functional capacity is; what kind of jobs are we citing in the situations where it's a framework and it's a denial.
So you know, this kind of information we are believing will help us in an a number of different areas, not the least of which is orient us and help direct us in terms of, you know, what information might we want to begin collecting first? You know, what kinds of occupations are of most relevance to us in our -- in our process. And you know, so if we look at that information at all levels of adjudication, everything from the initial level in the DDS all the way through the Appeals Council, I think that might be very helpful.

Yes, Mark.

DR. WILSON: Do you have any sense right now -- I mean, if you go out and talk to people, they go, oh, well, there is five jobs here, or you know, there is these three areas. Is there any --

MS. KARMAN: No, I don't. Maybe there are other people who do in the room. The only thing I can think of off the top of my head is that it would be really good if we, at least, took a look at what we're now considering unskilled, sedentary.

DR. WILSON: Right.
MS. KARMAN: But that's so broad that I don't know if that's particularly helpful.

DR. WILSON: Probably should have asked the judges today if there was some pattern.

MS. KARMAN: Yes. I think getting into our claims process and looking at what's really being collected about our claims. What kind of work are they actually doing when they come to us? What are we citing at the back end?

I mean, given that that's informed by our policy, okay -- so that's not -- we have to understand that that's part of it. I think that might be helpful too. We certainly can go out there. That may be one of things we may want to survey people about or ask them about.

What kind of elements do you think are necessary to include? What sort of data would you like to see in this particular classification system? Or by the way, what -- just you know -- you know, if they can give us some sense of what kind of work they tend to think would be helpful for us. I mean, even though that's -- you know, we are just
asking people for their opinion, but.

DR. FRASER: Sylvia. The study on examining the claimant's, you know, DOT or job background, when will that be finished?

MS. KARMAN: Actually, we're about to pull together the study design. We're hoping to have that done by the end of March. So we haven't worked out yet if we're going to need to bring somebody in to run the study for us, or whether or not we're going to be able to do it on site, or you know, with Social Security.

I can't really answer the question, but it's something we want to do as soon as possible. So I would like to say this calendar year, but I'm not sure. Because we're going to need that information, I think, sooner than later. So that's just some of the ancillary research that we are looking at.

I think there are going to be other things that, you know, our workgroup is going to identify; and as well as -- as the Panel is discussing concerns and needs -- I think there were a couple of
items that we have been taking down over the last
day and a half in terms of questions that were
raised by the Panel members that might suggest, you
know, either a separate study or, you know, a
question or two that we would want to add to this
particular study, as long as we have got the claims
folders open, so-to-speak. Definitely, that's
something we will want to be, you know, hearing from
you all about.

Let me see if I am now on the same page.

Okay. So then, again, part two, you know, once we
know what we want. Once we have the content model
and the instrument together. How do we go about
going it? Actually, this is, again, an area where
we're going to really look to your assistance,
because even if we, for example, have an initial
classification system, we're going to be wanting to
take whatever data we get in this data collection
and refining that with whatever is actually going on
in the world of work.

We had several ideas about how we might
want to collect data in the first place. If, in
To the extent that we are going to be using, you know, on-site job analysis for, perhaps, some of the elements -- some elements may not lend themselves to that. For example, things that are not as observable. We're going to have a very difficult time. I think that's going to be an area where we will be challenged in terms of how can we measure those things and get the best information we possibly can. And there are a number of methods out there, I know, that people have been working on, and that there is research for.

For example, if we were to do on-site job analyses, there is, you know, a whole version of those things where you can have something from the Cadillac model all the way to maybe -- I don't know. I had a Honda Civic model for 12 years -- like the Honda Civic model.

For example, you could actually have people who are hired, trained contractors to get out there and do that, do some of it. Perhaps -- I know we had talked with a number of professionals -- vocational rehabilitation specialists and others,
individuals who, in the normal course of their work, go out and do job analyses. Perhaps, that could be a second tier, a group of individuals who are going on using our protocol who have been trained, and will, perhaps, be able to provide us with -- do some job analyses for us.

We, a few years ago, did talk with some of the states, with their Workers' Compensation program administrators about the possibility of having some kind of data collection. Now, granted, most of the time they are more interested in physical -- collecting physical information for our Workers' Compensation. But nonetheless, perhaps, if they were to use our protocol, might we be able to come up with some way of, you know, instituting a method there that might be feeding us with information?

So I'm not saying these are literally our plans from soup to nuts; these are just some ideas that we have generated, you know, for purposes of discussion. And also to present to our executives what it is that Social Security may be facing. So that we had some idea of when we were talking with
our executives what the plans might entail, and what
might -- you know, the Agency might need to be
facing in terms of what would this look like? So in
any case, we do have some of that -- we have thought
through some of those things.

As the Panel is deliberating on issues
over the next couple of years at a minimum, you will
be presenting what our thoughts and plans are around
those specific issues. So as we get to instrument
development, you will be hearing from Social
Security. But getting something from us on what
we're thinking about in terms of instrument
development, and that, I think, will, in turn, you
know, initiate discussion with the Panel.

Then, very quickly, I can just walk
through the last few stages here. Policy
development is an area that's going to be critical
to us, to Social Security. Will not -- it will not
be something that the Panel -- at least not as it is
currently chartered -- to be focusing on. Although,
as you can well imagine, some of what we're going to
discuss is going to be of interest to Social
Security in terms of its future policy development.

We do know that there will be some studies that we want to undertake to help inform policy development. So you know, there is -- we know that there is going to be some work that we need to tackle there -- that Social Security needs to tackle. That's just to give you the larger picture that -- because somebody this morning, I don't remember -- maybe it was Tom -- asked about how this fits into the -- in other words training. You asked this morning about training. That's coming up.

As we begin making whatever changes we need to make so that the new information is being used -- made use of as efficiently and best as it possibly can be. We, obviously, need to be getting out and training people about it.

That's basically a disability process, a systems integration phase. We're going to look at, you know, where -- at the point where Social Security has now been gathering a great deal of data, and we are also making whatever changes we did in our policy, you know at what stage can we, then,
begin integrating this to future systems developments that the Agency is currently working on?

So, you know, we're going to have to kind of be coordinating that. And then, of course, the ongoing maintenance and support, which really is something that I think the Panel will want to be weighing in on. You know, as we make recommendation about possible methods, you know, things that we would recommend.

Certainly, you know, how would you sustain this in the long run, is something that we really need to take up? Or at least be able to give SSA the pros and cons of something. So that, you know, we know what we're facing if we go down one road versus another, or we integrate more than one method. So basically, that's our whole process, or at least our whole plan for now. The initial plan. So are there any questions?

DR. FRASER: Sylvia, I have one. Do you have a workgroup who is looking at different types of job analysis other than the handbook for
analyzing jobs?

MS. KARMAN: Yes -- well -- yes and no. We did do that for a number of years, and we are still continuing to do that. We are also looking to the Panel to provide us with a lot of that expertise. So while our team is going to, you know, get out and continue to try and stay on top of research or methods that are being explored at the moment -- for example, I do know we want to take a look at what Canada is doing. We had some conversations with individuals in Canada a few years ago. So you know, it's something we know we want to revisit.

There are other countries that might be involved with things, or actually struggling with things so that, you know, we know, where are they struggling? What kind of problems are they having? What methods are they taking a serious look at? Then, we would want to get into the literature to see how might those things inform our work.

But truly while we will continue to do that, we're really looking to, you know, get sorted
members of the Panel who have expertise in those areas to sort of step up to the plate and help us with that.

DR. FRASER: We can maybe build in a session at our next program.

MS. KARMAN: Okay.

DR. FRASER: The other thing was when we get to this -- kind of circumscribe the jobs that we maybe want to analyze in more detail. You know, some of -- would be on site -- we have to go on site; and some wouldn't be. You know, we have hundreds of these on contract, nationally. It may be an easy survey kind of method to get that kind of recommendation in.

MS. KARMAN: You mean -- let me see if I understand that correctly. You mean to ask VE what kind of jobs they think are most --

DR. FRASER: At some point we will have circumscribed based on our claimant data, perhaps, what we're getting from O*Net. These are the jobs we are going to concentrate on. Some might be outliers. These are the core target group of jobs;

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let's say 4800.

MS. KARMAN: Right; whatever it is.

DR. FRASER: Then, you know, we could
survey our VEs as to, you know, on site/off site
questionnaire. You know, then, questionnaire what
type of job analysis to do that? They could provide
input in the process. I mean, I think this is what
they do for a living.

MS. KARMAN: Correct; right, yeah.

DR. FRASER: One stop shopping, you know.

MS. KARMAN: One of the things that comes
to mind for me is something that a number of us
discussed a few years ago, and I'm sure Jim will
remember this, and Deborah, and Tom. We had talked
about using some of the expertise that's out there
to do some of the data collection for us, because
these individuals are frequently out in the
workplace, evaluating work.

Now, understanding that that is a sample
that would be skewed, because those are individuals
that -- the jobs that they're looking at are for
people that have been injured or whatever. There is
a reason why they're going out to that workplace.

Nonetheless, it is still data that we still could be collecting, if it's not the only thing we're collecting. That would be a really good way to work with -- you know, another way for a vocational expert -- you know, expertise to be used in our process. May be more toward the front end, as opposed to just at the back end. I mean, if that's what you mean. I'm not sure if that's what you are talking about.

MS. RUTTLEDGE: Sylvia. This is Lynnae again.

One of the things that struck me when we were getting started is that -- and you were going through your slides and you talked about outreach. One of the commitments I made to the Council of State Administrators and Vocational Rehabilitation when I agreed to serve on this Panel is that I will use my connection with the public vocational rehabilitation system to help get input.

Having been an administrator of the vocational rehabilitation program that also
administered the Disability Determination program in Oregon, I know that we have staff who have been in both offices. They have worked for DDS, and they have worked for VR. And I think there is people out there who have used the systems that you have, and will have an idea of what might make sense.

I'm a big proponent of engaging the staff to get input as we create solutions. I think there are some folks that wouldn't know the nitty gritty pieces, but would certainly have a pretty good perspective.

MS. KARMAN: Okay.

MS. RUTTLEDGE: I just remind all of us as Panel members that you have a Disability Determination Service office close to where you live or work. I would encourage folks to find a way and work through Debra to make a contact at a local DDS office, and just talk with the trainer. Have someone just pull up the system and show it to you.

MS. KARMAN: Yeah. I'm glad you brought that up, because I was speaking with a couple members of our OISD workgroup before we came to the
Panel sessions. And one of the things I mentioned was that I know several of you have already approached us about getting to a DDS and a hearing office, and just seeing what these individuals do, looking at a file, you know, this sort of thing.

When I spoke with John Owen, for example, in the Office of Disability Determinations, one of the things that came out of that conversation was possibly arranging at our next meeting to be able to show the Panel members an electronic file. We could probably try to set something up with a test -- in a test environment, so that we're not having a PII issue. We really don't want to go to a DDS and just open up files, and start looking at things. This is people's private, you know, personal information.

And also, you are quite correct, we want to be working through our Office of Disability Determinations, so that we can set up that kind of a visit and have it be, you know, sort of a formalized, you know, situation where when we show up, you know, we're already having mild kind of questions that we're going to ask, who we're going
to talk to, that kind of thing. We're definitely thinking that will be really valuable.

So probably what we want to do as a Panel is think about, what kind of things do you want to ask? What kind of things would you like them to tell you about? So yeah.

And we could ask also the people to come and give us presentations. I mean, you know.

MS. RUTTLEDGE: It was enlightening to me when I went over to the DDS office in Olympia. And I didn't look at an actual person's file; but the person I worked with was a trainer, so she was able to show it to me.

And so I said, just tell me, what's really a problem with the DOT. And she just starts laughing, and she said, well, let's just use a really easy example. Look at a dishwasher.

Dishwasher is not an occupation that's in the DOT. It is a kitchen aid, which goes back to 30 years ago. That's what that particular occupation was called.

So I think just talking to DDS examiners,
and just having them just kind of not to do an in depth -- you don't need to do everything that they do. I think they have got some great stuff they can show us.

MS. KARMAN: Okay. Any other questions?

Yes.

MS. LECHNER: Just a comment, kind of going back to what Bob had said earlier. I think there are a variety of disciplines out there doing job analysis. You know, I work with primarily physical and occupational therapists who do it. There are industrial hygienists who do it. There are safety people who do it. There are case managers who do it.

I think there is a variety of sources that, if we reach that point, and when we reach that point, if there is a consistent methodology that can be taught systematically; then, I think there are multiple disciplines that are out there in the field already doing this kind of work.

MS. KARMAN: Okay.

DR. FRASER: As I left, there was a
contract sitting on my desk. I asked my manager to
follow-up. The company is called Heritage
Corporation of America. They're doing -- one of the
key services is job analyses for veterans, you know,
with a certain job goal. You know, can a Veteran
with "X" disability do it? They are just getting
going, just a few months into it. But that will be
a service provided around the country by this
company. So I have no idea the extent of it, but it
is happening.

MS. KARMAN: Anything else? Anyone else?

Going once. Going twice.

DR. GIBSON: Couldn't resist. Thinking
about the different sources of potential job
analysis formats out there is probably a very good
way for us to also, begin doing some research into
what types of items we want to include in our
content model. The truism of job analysis is that
they measure things at different levels; whether
from a task level to more macro, holistic types of
models.

By collecting examples of the different
kind of job analysis instruments out there, we may
be able to inform our content model and get some
ideas about what is viable to be measured, and how
it can be measured.

MS. KARMAN: Okay. That's a good idea. I
don't see any other red lights. Are we finished for
now?

I see your red light, Debra.

MS. TIDWELL-PETERS: Sylvia, thank you.

Of course, that's just the beginning of
talk about the project and its various pieces.

First, I would like to thank all of the
members of the Occupational Information Development
Workgroup, because without you -- the bulk of all of
the presentations that were done over the last two
days were worked on and developed, and speakers were
tutored and mentored; and we appreciate all of your
work in helping us put together the inaugural
meeting for these members. Because it is extremely
important that they have this basis of information,
and all have the same basis of information. So we
thank you for your work on the projects, the
workgroup.

Next, we will continue to thank all of our members for being here. Because as you can see, we have something here that we do need your expertise and guidance on. So we continue to thank you for taking time out to be with us.

We are not quite through for the day. But now for the hard part. You know, we have had an opportunity over the last day and almost two full days to talk at you, and to give you lots of information. And now for a few minutes, if we can just go around and would like to get from each of you sort of your first impressions. If there is something that stood out that you heard.

Tomorrow we will be talking about action items. We have been generating a list as you have asked questions throughout the last day and a half. But for now, if we could just get your first impression on what you heard, and on the task before us. And I would like to start with David.

David will not be able to be here with us tomorrow. We thank you for being here with us for

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the last two days, but really would like to hear

your thoughts first and your impressions.

DR. SCHRETLEN: Yes. Thank you, Debra.

I'm very happy to be a member of the Advisory Panel.

I haven't sort of organized my thoughts very much at

this point, and probably won't for a while. But in

general, I think it's been enormously helpful to see

the series of presentations. It's helped clarify

for me, at least, to get a -- sort of a beginners

understanding of what the issues are with the DOT.

And as I had said earlier, I think it

would be -- it would continue to be helpful to me to

hear from actual like DDS or case workers what kinds

of concrete problems they run into when they're

attempting to make this step, when they're

attempting to bridge the gap between the worker's

ability and the job demands. Where it works. You

know, what is working. What we don't want to get

rid of, because its effective, and usable, and

serviceable. And where the matches are. Where the

deficiencies are.

I think the only other thing is just to
say, you know, it sounds like this is a daunting, but fascinating task ahead of us. As a neuropsychologist, I will be more than happy to do my best to sort of help think through how we do the assessment on the person side of the bridge. And I look forward to learning more about what's on the other side. So.

MS. TIDWELL-PETERS: Thank you, David. Mark.

DR. WILSON: The word "daunting" keeps coming up. Concerns me a bit, but since I used it, I think, first --

DR. GIBSON: You own it.

DR. WILSON: Yes.

From a job analytic standpoint of it, kind of the work side, the reason it's so important to go out to the various people who use this information and get a clear understanding of exactly what they're doing firsthand for me is -- even though, you know, it is various kind of people that I deal with. I say, well, I'm not a, whatever it is they're doing, and that's not my aspiration here.
But in order for me to make some of the kind of decisions that I need to make, you really need to know at a fairly in depth level what they're doing, why they're doing it, things of that sort.

That's why I was one of the people asking to be allowed out -- hopefully, won't do too much damage while we're out there in terms of scaring people or things like that. Although, I think it is a legitimate concern that any time, especially outsiders -- I am from the federal government. I am here to help you with your process. Not only that, I am special. I'm not even full time. I could see how that would create a number of issues.

But in terms of initial reactions, I sort of like to reserve them until I get to do some of that more detail stuff. For right now I guess the initial reaction would be, I get a sense from talking to people and kind of understanding the lay of the land politically is one of optimism, you know. I think it is a daunting task, and it has a lot of facets.

And as the Commissioner said, I think it...
is sort of mind numbing complexity to some of this, which we need to capture a number of things that are used by a number of different people. So that's a concern.

But my general reaction is over the course of the two days so far that, at least from a job analytic, and also from, you know, my views on the person side that, you know, this is doable.

MS. TIDWELL-PETERS: Thank you, Mark.

Debra.

MS. LECHNER: Well, you know, I come at this a little bit differently, but I -- and I want to sort of echo Mark and David's comment about, I think, the more we learn about the specific deficits of the existing system from the DDS perspective, the more details that we can learn about that, we should really let that drive our decision making process.

I was involved back in the days when we were looking at the redesign and learned a tremendous amount of -- about Social Security at that time; and also, just working through that process I saw us -- when we went out and tried to do
something totally different, I just saw that there was a lot of time spent in kind of flailing around. So -- and that's not to be critical of that process. I have a lot of respect for everyone that was involved in that process, but to say that, you know, I think we would be better served to take where we are now with the DOT as our starting point, and look at our job as refining that and making it better, and addressing the issues of the DDSs as they struggle to do the best possible job that they can do.

So that's kind of -- you know, there is a whole world, a whole universe, 10,000 universes of how we could address this. There is, you know, a million ways to skin the cat; but I would advocate for us starting from where we are now.

Not only is the Social Security Administration's process closely tied to the current DOT, but all in the medical community, those of us who are assessing folks who have experienced injuries, a lot of our processings are tied to the current DOT process as well. So I think we have to
consider that as part of the -- part of the tiger
that we're trying to change to shift the direction.
You are not only shifting SSA, but you are shifting
the medical community as well. So you know, those
are the two things that strike me.

And as I was jotting some notes down as
people were speaking, I sort of see this in a couple
of phases, one is the phase where we really spend
fully understanding the global and the specific
shortcomings of the current DOT. And then phase two
is, okay, once we understand those shortcomings, how
do we structure and set priorities? How can we
carve out those pieces that Commissioner Astrue
thought about from the beginning, and you know,
spoke about in the beginning of our meeting and
said, is there a piece that we can carve out and
accomplish? You know, letting that sort of drive
our decision making process to some extent.

MS. TIDWELL-PETERS: That's great. Thank
you.

MS. KARMAN: Okay. Yeah, thank you very
much. Because the three of you have already helped
me or sort of organize my thinking around this.

First of all, one of the things that comes
to mind for me is that it might be helpful for us
to -- you know, to be thinking in terms of -- to the
extent that we're replacing the DOT, you know we're
creating an Occupational Information System that's
tailored for SSA. I know we keep saying that over
and over again. What does this really mean?

I guess for us this means that we're
replacing the use of the DOT in our process. So
that would really very much inform what changes
we're looking to make. And so -- for example, with
the content model and that kind of thing.

So, you know, we don't have to just simply
go out and pretend like nothing else ever happened
and start from scratch and not know what, you
know -- so I think your point, Deborah, was well
taken -- for me anyway -- that, you know, there is
some things we do know. We need to take a look at
what are these different shortcomings; you know,
what sorts of things are we going to want to address
that is of most value to Social Security.
And then another aspect is that it might be helpful for us -- and this is just sort of a tangential comment to that -- is that it may be helpful for us to imagine that while we're in the initial stages of developing our recommendations and deliberating, certainly -- at least maybe for the content model and the classification, I am thinking it may be helpful for us to be thinking that the policy right now is standing still. Because it's very difficult to think in terms of this portion moving; the R and D, well, we're developing. What if -- you are talking about how we might want to make changes and what kinds of things we're looking for, if we also -- you know, have part of our minds about what might change over here? That doesn't mean we may want to be considering that something that we would develop here might inform the process down the road. But it's helpful for us to just think of it as momentarily standing still long enough so that we can have a target, I guess, in a way. Hopefully, I am making some kind of sense.
I am getting this look. I don't know -- you are next Tom, so. So I'm not sure if I am making sense. In any case, I think, it's valuable to take a look at what kind of shortcomings we have got that we're using now, and see where that might take us in terms of what things we want to recommend. So thanks.

MS. TIDWELL-PETERS: Thank you, Sylvia.

Tom.

MR. HARDY: I guess I have two words that come to mind; the first is daunting. That's out there. I really have to echo with what Deb said. I have been involved in this before, interfaced with the Department of Labor and the Administration for a very long time. I have to thank everybody in the workgroup. I don't know all of you, but I know some of you. I have tried to talk to those of you that I know. The work that has been put in to prepare for this meeting is spectacular.

I know Deb used the word flailing. I hate to use that word again, but when we first tried to
address some of these issues back five, ten years ago, and trying to get our hands around the problem, I don't know if I would say flailing, but I might say flailing. We were really trying to figure out what's going on.

The work that you have given us is such a good foundation, I can't thank you enough. I really, really mean that. I think that your commitment is really shown by the materials that we have gotten. And the thoughts process that's gone into posing the questions, organizing how we're going to start addressing things. It's really -- you should be commended. Everybody who has worked on this project should very much be proud of what they have done. I think you have given us a very good place to start. You can't get any place without a good starting place.

That's my first word is daunting. The second one is I am really excited. Because of all this, I think we're ready. I think we have got the materials. We have got the ideas. We have got the right people. I'm ready. I'm still daunted, but
I'm ready.

MS. TIDWELL-PETERS: Thank you, Tom.

Shanan.

DR. GIBSON: I think, first, I have to agree significantly with Tom regarding the fact that I feel like the entire workgroup has laid a foundation here in a very logical, rational manner that has built for us this framework upon which we can, hopefully, move forward. I am very thankful for that. I don't think if we had not received the presentations in the order they were given, building with supplemental information in detail in each step, we would even have any clue where we are at right now. And that's the truth.

The second thing I think I'm finding is I am very gratified just by listening to the first perspectives of everybody on our Panel, the diversity of perspectives we bring with regard to moving forward. To put it simply, some of us are big picture people. Some of us are more microoriented in how we want to approach things.

I think that will be good, because while I
am listening to some people, I can't help but think, gee, I was always taught that 85 percent solution tomorrow is sometimes better than a 95 percent solution two years from now. So it is nice to know that we're going to have this push and pull, and give, and take that is going to be informed from multiple different perspectives on information and how to move forward. So that part is exciting to me as well. I also think in the end will result in probably a better product for every party involved.

The other thing, my last kind of observation is -- I guess I am falling into that micro side, because I keep thinking about the content model, and the building of the content model; but, for example, I really appreciated the comments of Lynnae, because it hadn't even occurred to me that we had this diverse number and type of subject matters experts out there, which might be able to better inform our content model both on the people and the job side.

And going back to what Sylvia said, if we start with the person side of the equation, that
naturally informs the job side as well in terms of
what types of data need to be collected; and
therefore, inform the nature of the job analysis
instrument.
So whereas, Lynnae had that idea, it seems
like Mark had already had it too, told no, don't go
out and antagonize them yet. It is just good to
know that we are going to have these different
sources or resources available to us as we move
forward.
MS. TIDWELL-PETERS: Thank you, Shanan.
Jim.
MR. WOODS: I, actually, look at it a
little bit differently, and suggest in some ways
that the delimiter that has been put on us, that
we're working within existing policy; actually, at
the level of the Panel, I believe, can make this a
somewhat undaunting activity. But that also won't
limit Social Security down the road if policy
changes. By that -- this is really tying into what
all the other members have said -- I think that will
really help focus what are the specific elements,
given the existent policy and Regulations; and as Lynnae has indicated, the experience that's out there with staff that we can develop a -- the data elements that are in that content model as you have been suggesting, Shanan; and I think that that's going to be extremely doable. I think that's very important.

To me, going into this, at least personally -- may not affect anyone else -- is of great significant, because I have -- just for a moment -- I counted up last night -- I have been involved in 23 governmental surveys over my career. And need not be discussed here, have to come up down the road. It's a huge process to get done through the Office of Management and Budget.

Just going to suggest only one thing right now related to that. As we go down this process it's occurred to me that I think will be very important not now -- this is down the road -- that we keep the Department of Labor and possibly the Department of Commerce -- we can discuss that -- in tune with what we're doing. It does not matter if
we're doing something entirely different, but there
is going to be some significant implications,
possibly, in the Bureau of Labor Statistics, and
Employment and Training Administration dealing with
survey issues. None of that should limit anything
that we are thinking about or discussing. It is
going to be a very pragmatic issue. It just
occurred to me just to keep them informed would be
very useful for what will be, then, a daunting task
to get through that process, but a doable task.

The last thing I will say is -- I know
this is just a personal voice. I don't think we're
updating the DOT now. For purposes of keeping the
title DOT, so that we can minimize changes in Regs,
fine. This goes back to the issue, we are not
updating the DOT; we are developing -- exactly,
Sylvia, like you said -- a tailored occupational
information system that focuses on the specific
needs of Social Security.

As part of that process, and as pointed
out in your slides, we want, I think, to be able to
integrate and at least be compatible at certain
levels with other existent Occupational Information Systems that we can benefit from. So that we can look at employment estimates and occupational projections if that becomes valuable to us. I very much -- it may seem trivial -- I do not see this as update of DOT; but a subset that is very focused.

I just want to second what Thomas said. The idea of sitting for two days and listening to people talk, I would abhor that. Yet, I have given training where I talked for two days, and people abhorred that. I will say this about 37 years, including military service, I thought the organization and the presentations that were given have been among the most informative that I have not -- maybe because of my lack of knowledge; but I just found that exceptionally helpful in starting to think about some of these issues.

MS. TIDWELL-PETERS: Thank you, Jim.

Nancy.

MS. SHOR: I'm just -- certainly, would echo that. I just really want to extend compliments to everybody that has been involved for putting that
together.

MS. TIDWELL-PETERS: Excuse me, Nancy, pull, your mike close. Thank you.

MS. SHOR: For more than 20 years -- we will just leave it there -- I have been doing a lot of continuing legal education for attorneys across the country in Social Security disability law. And when I get to step five of essential evaluation, it's always easy to say, well, there is three things you can count on in life, death, taxes, and an outdated DOT.

You are about to ruin my stick; but it certainly is -- it is almost out there as a conversation stopper. Because people hear about the length of time that has elapsed since the DOT was last updated; and they think about changes that common sense tells you have occurred in the work world. But it truly is a conversation stopper, because what to do about that is so daunting that everybody just kind of, it's time to go for a coffee break. So for that reason I am very cognizant of problems with the existing structure.
Sylvia, I appreciated the comments you made during your presentation talking about two sides of the coin here. That one side, really, is the -- whatever is going to be the DOT replacement, what's being used by the adjudicators; but the other side of the coin being the data collection. That this whole engine is fueled by the information you get from claimants, and information you get from doctors, and what kind of forms and instruments are you going to develop. Because as I thought you so well stated, the two completely go together.

If -- you can't have the data collection and not do something intelligent with it. You can't have a great evaluation system if you haven't addressed some of the problems, some of the realities of getting that data pulled in.

So I think -- I hadn't thought about that before, and I found that a very useful concept for me; and certainly, I bring the Panel nothing in terms of knowing other job classification systems and how -- what other approaches are available out there. But I hope I do have quite a bit to offer on
the data collection side. Thank you.

MS. TIDWELL-PETERS: Thank you, Nancy.

Bob.

DR. FRASER: Well, first of all, I appreciate all the work that's been done. Just fantastic in getting to where we are today. I am very thrilled to be involved in a very impactful project. One thing I wanted to point out, though, the DOT, it makes a wonderful book prop. Good to have one on your desk.

The second thing is to kind of keep -- to be aware of -- we have multi-prong work going on, the Michigan's group work. We are now starting the evaluation -- the evaluation of claimants' occupational background. Maybe evaluation of other job analysis symptoms.

So just to maximize our meetings that we try to look at what junctures are going on in these different projects. For example, we can move up our -- we can have our April meeting and still be a week or two short of maybe the data from Michigan. As opposed to getting locked into certain time

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schedules, kind of look at what's happening, try to
maximize things kind of along those lines.

I guess another point, in all due respect
to Judge Hatfield, I don't think all VEs are robots.
I think it is a difficult job. I am a VE.
Although, it may look automatic in giving this
information, it is just a lot to it. You are
considering DOT information. You are considering
what you know from the field, other sources of
information. And it's a quite a juggling act.

And I thought one user group that was not
here today was some VE representatives. I think
kind of a little panel presentation would be at our
next meeting by three VE's of what they go through;
and what they experience; and what their challenges
are, is very important. Because they're going to
be -- hundred of thousands of cases; they're going
to be users of this information. They can be
outreached through the IARP, Internal Association of
VR Professionals for that kind of a presentation.

Just, you know, from our national database.

One more group that we might consider out

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reaching to is the Society for Vocational Psychology, which is under Division 17, counseling psychology. They have now -- their meetings used to be at the American Psychological Association meeting every year. Now, we have a separate conference, which is coming up in the spring in St. Louis. And they are some of the best vocationally oriented counseling psychologists, you know, in the country. And maybe getting that -- for a presentation at that conference at some point to get input, and/or at the IARP conference would be good. Would be a great exchange of information. Thank you.

MS. TIDWELL-PETERS: Thank you, Bob.

Lynnae.

MS. RUTTLEDGE: Just a couple comments just to echo what everyone has said, good job. Debra, Elaina, and Sylvia. I am just really impressed with the information that we got in all the presentations; but also to clearly hear from Social Security that you already have an idea of a direction to go. You are not making decisions for us. Why do that when you already have a Panel? But
you have got, I think, the framework in mind about a
way to move forward, which is really helpful. We
don't have to invent that. We now have a chance to
be able to help shape that. And I think that's
really -- that's much farther along than what I had
anticipated we would be.

When I got the invitation to serve, and it
said that you will be one of 12 Panel members -- and
Bob and I talked about this -- we looked at the list
and it was like, I don't know anybody, you know.
And it was -- now I now know all of us, at least us
ten. And that's a terrific place to start. And to
know that it's only going to get better from here is
just a great place to be.

When we talk about commitment to outreach
and making sure that Social Security connects with
Department of Labor and keeps folks in the loop
about the direction that you are going, please also
include the Department of Education, because that is
where the public vocational rehabilitation system
is; and that is a significant partner in all of
this. So I would just encourage us to always think
in those directions.

And lastly, I really want us to think about how to use technology. And when we were talking earlier today, and we were talking about the daunting task of doing something to the DOT, to update it, or whatever the occupational system is that we develop here and keep it updated, I wrote to myself "Wikipedia."

How many of us would have thought, as we were growing up and used things like encyclopedias, when there would be a day and time when electronically you could go and look at information that is updated continually. And it's updated by geeks who are really committed to content. And they will correct things.

And I think there is ways -- that we don't make it the responsibility of a DDS examiner -- but we identify ways that the content could continually be updated where it's not onerous; and people that have a passion for it could do it. And I think there is ways to be able to do that.

So I leave this second day feeling
incredibly energized. I hate to sit through meetings. I am a person who is always on the go. And I have been really excited to hear about where we're starting from, and where, I think, we're going to end up. So I'm pretty jazzed. So thanks.

MS. TIDWELL-PETERS: That's excellent.

Thank you, Lynnae.

Since you like the presentations so well, I think the workgroup will get together tonight and we will put together five or six more for you.

Tomorrow is a half day. There are some important things. We will start the morning by getting a group photo. So that will be the first thing.

We adjourn tomorrow at noon. And you will all have late check-out. You will have an hour afterwards so that you can prepare to leave the meeting.

Do I hear a motion to adjourn?

MS. RUTTLEDGE: So moved.

MS. TIDWELL-PETERS: Anyone. A second?

MS. SHOR: Yes.
MS. TIDWELL-PETERS: Thank you. The meeting is adjourned. Tomorrow morning we will reconvene at 8:30.

(Whereupon, at 3:42 p.m., the meeting was adjourned.)
CERTIFICATE OF REPORTER

I, Stella R. Christian, A Certified Shorthand Reporter, do hereby certify that I was authorized to and did report in stenotype notes the foregoing proceedings, and that thereafter my stenotype notes were reduced to typewriting under my supervision.

I further certify that the transcript of proceedings contains a true and correct transcript of my stenotype notes taken therein to the best of my ability and knowledge.

SIGNED this 16th day of March, 2009.

______________________________
STELLA R. CHRISTIAN

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