

SOCIAL SECURITY ADMINISTRATION
OCCUPATIONAL INFORMATION DEVELOPMENT
ADVISORY PANEL INAUGURAL MEETING

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SHERATON - CRYSTAL CITY HOTEL
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1 P R O C E E D I N G S

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

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

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

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

22 His directive that we should develop an

1 occupational information system, in his words, that
2 was thoughtful, effective, and also fast.

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

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

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

21 This afternoon we are going to focus on
22 prior efforts of the agencies to look at this issue,

1 our program, and legal requirements. And finally,
2 we will turn to the road map, which is SSA's plan to
3 develop this information and the occupational
4 information plan.

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

9 Good morning, John.

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

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

18 Currently, the claims intake begins at a
19 field office or sometimes with -- when the claimant
20 contacts a telephone service center. They're four
21 levels of claims. There is the initial, the recon,
22 the ALJ hearing, and the appeals council level.

1 Reconsiderations, ALJ and appeals council must be
2 requested by the claimant to appeal a decision that
3 was made earlier.

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

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

22 For both SSDI and SSI, we evaluate first,

1 of course, at step one of the sequential evaluation
2 any work that the claimant may be doing. Because if
3 they are working above that, as you heard yesterday,
4 SGA level, substantial gainful activity level, then,
5 they would not qualify to be considered further for
6 disability benefits.

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

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

19 The decision at the DDS is made by a team
20 of doctors and disability specialists, and that's
21 done by reviewing the application; and the initial
22 application contains some information about who the

1 claimant has seen as a medical provider, what tests
2 they have had. It includes vital things like their
3 age, education. There is also in the initial
4 application brief information that's gathered
5 listing the names of jobs that they have had in the
6 last 15 years, which is the current relevant period
7 time that we consider for determinations generally.

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

19 The steps that precede either determining
20 a claimant meets or equals a listing, or whether we
21 have enough evidence to complete the residual
22 functional capacity, RFC form, or the PRT, that's

1 the psychiatric review technique form, which is used
2 preceding the completion of the mental residual
3 functional capacity, the MRFC form. A lot of time
4 is spent in those steps of development and analysis
5 prior to the time the adjudicator gets to doing the
6 medical decision -- or the vocational determination.
7 The majority of the time.

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

20 Once all that information is then
21 gathered, and we determine there is enough medical
22 evidence; then, we go on with our vocational aspect

1 of the decision.

2 The relationship between the state DDS and
3 the federal DDS is that Social Security does -- they
4 provide us the funding. DDSs are 100 percent
5 federally funded. They provide us the guidance for
6 the adjudication of claims. We follow their rules.
7 We don't make up our own. And it's, of course,
8 governed by the Regulations, all those rules.

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

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

18 Workloads. The DDS and their workloads.
19 Currently, there are 52 state or territorial DDSs.
20 There is DDSs in every state. Some states have
21 multiple or decentralized DDS. Washington, D.C. and
22 Puerto Rico have their own. There are also some

1 federal processing centers or units, and a couple of
2 federal disability components in Virgin Islands and
3 Guam.

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

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

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

22 We also have reconsiderations, which, at

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

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

14 In ten states, which are referred to
15 sometimes as a prototype states, there is no
16 reconsideration level. The claimant moves directly
17 from an appeal of the initial decision, and the case
18 goes to the hearings level. So the importance of
19 making a decision can be very important to these
20 individuals, because the wait for a hearing is a
21 much longer time than a wait for a decision in the
22 Disability Determination Services Office.

1 Once a claimant is found to be disabled,
2 and are a beneficiary, the DDS also process a
3 workload called CDRs or continuing disability
4 reviews. This is where we do periodic review of
5 cases to determine if a claimant remains -- or
6 beneficiary at this point, remains disabled under
7 the Social Security definition.

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

15 The medical improvement review standard is
16 similar, if a claimant's condition has changed. If
17 the claimant's condition hasn't changed, we just
18 make a decision about medical improvement, whether
19 it's related to the ability to work. And if it
20 is -- if there is no medical improvement, we
21 continue their benefits. If there is medical
22 improvement, we start to look at the case in very

1 much the same ways that we do in an initial case.
2 You are looking at the whole picture of the person
3 to see if they would qualify as disabled under
4 Social Security's definition.

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

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

19 But nationally, the disability examiners
20 make up about 46.3 percent of the DDS staff.
21 Examiner trainees make up 3.7 percent. Vocational
22 specialists make up .2 percent of the DDS staff. So

1 there is not very many people on staff; and in fact,
2 some DDSs what they will have is a -- sometimes
3 referred to as a subject matter expert, or a super
4 subject matter expert in the area of vocational. A
5 super SME, as sometimes they are referred to. But
6 someone who has had some additional training,
7 perhaps, provided by SSA at their home office or at
8 a regional office where they specialize or get some
9 additional training, especially in those cases which
10 in the DDS we always consider the hardest to
11 adjudicate at step four and five -- or really at
12 five where you are talking about framework
13 decisions.

14 Those decisions where they don't just fall
15 right into the grid nicely, which if everyone did
16 our jobs would be much easier, but they don't. Most
17 people fall somewhere around the lines, if you will,
18 outside of the grid. But within the grid, because
19 we have to make a framework decision within that
20 grid, medical consultants make up 8.1 percent
21 nationally. Then the remainder of the staff
22 includes administrative clerks, and quality review,

1 QA.

2 Yes, Mr. Hardy.

3 MR. HARDY: Sorry to interrupt. I had a
4 quick question. On the vocational specialist, is
5 there an education or training or certification
6 requirement for those who work at this level?

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

14 Does that answer your question for now?

15 MR. HARDY: Yes.

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

21 One of the problems that DDS also faces is
22 attrition. Historically, the attrition rate runs

1 between 10 percent and 11.5 percent annually.
2 That's a large amount of knowledge walking out the
3 door every year. It varies greatly state by state.
4 It's based on lots of factors that everyone faces.
5 You know, the economy in a state might effect
6 whether, you know, people move.

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

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

1 of a vocational specialist.

2 So through trial and error in some ways,
3 and spending lots of time in tools, such as the
4 Dictionary of Occupational Titles, you know, they
5 can make more -- help make more consistent decisions
6 throughout the Agency and with the adjudicators.
7 Also, they become much quicker at using the
8 Dictionary of Occupational Titles, because they
9 become more familiar with the 12,000 or so jobs
10 listed there.

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

20 To say -- until you have handled about
21 2,000 cases, you really aren't a fully trained
22 examiner. That depends on, you know, the type of

1 training that you have, which also can vary state to
2 state. There is a -- program manuals that are
3 published by Social Security that are available for
4 all states to use in the training process, which are
5 very good. And most examiners have that training.
6 But in addition to that, it's really getting in and
7 doing the case work, and working with the medical
8 consultant on staff and your mentors that help you
9 gain the experience and knowledge to understand the
10 process fully, and to be able to assist in writing
11 residual functional capacity forms, and medical
12 residual functional capacity forms; the RFC and the
13 MRFC.

14 In some states, there is a pilot program
15 called the single decision maker case, where
16 adjudicators with enough experience and training are
17 allowed to make decisions on their own. They can
18 make both physical and mental denials and allow --
19 both denials and allowances on physical cases.
20 Although, if there is a mental impairment involved,
21 they are not able to make a less than fully
22 favorable decision without the use of a medical

1 consultant; and they're not allowed to sign off on
2 childhood cases at all.

3 Mr. Woods.

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

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

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

18 MR. OWEN: You are welcome.

19 Sure, Mr. Hardy.

20 MR. HARDY: I am waking up today. I
21 recognize the examiner case loads are based on
22 experience and vary. But what would an average case

1 load be for an examiner? Do you have that statistic
2 by any chance?

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

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

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

19 You will see the last bullet on this slide
20 indicates that an adjudicator, a top tier
21 examiner -- and it's based -- a top tier examiner
22 can have between 9.8 and 20 new cases a week. That

1 varies a lot by that make up of personnel within an
2 office.

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

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

19 Also -- that can also be dependent on
20 receipts in the state. You know, the economy
21 sometimes affects whether people apply for
22 disability. And so -- because states manage their

1 own citizens's applications for disability, you
2 might have a state that realizes much higher
3 receipts than another state. That can also play
4 into it.

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

13 Without the change in -- I mean, in the
14 same DDS -- and it really has to do with program
15 changes that might have required a little bit of a
16 slow down in work process; it might be affected by
17 the number of adjudicators and the attrition rate
18 with fully experienced adjudicators leaving, a bunch
19 of trainees coming in. Trainees don't generally get
20 a large number of cases, so the number can fluctuate
21 greatly, even within one DDS. To say an average
22 number, it would change tomorrow.

1 MR. HARDY: I want to make sure I
2 understand correctly. The examiners are going to be
3 completing the RFC form at some point?

4 MR. OWEN: Only in some states.

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

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

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

22 MR. OWEN: You are not bugging me.

1 There is an initial disability examiner or
2 adjudicator training module that -- I don't know
3 that it is used in every state. Some states may
4 have developed their own training modules, but I
5 know it's available for use. And all the states
6 that I have worked with I know has used these
7 modules. In addition to those modules, there are
8 different types of training that might be given
9 depending on the state.

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

19 But in some states -- larger states with
20 larger DDSs, it's a much more formalized training
21 setting. And there are -- you know, it's a certain
22 number of months that they actually spend in the

1 training room. And then slowly they might be
2 brought out into real case work, spending part of
3 the day in training, part of the day at their work
4 station processing claims, which, again, are --
5 those cases are reviewed by the supervisor. Quality
6 checks are performed throughout the process until
7 they have enough experience and demonstrate that
8 they have the knowledge, skills, and ability to work
9 more independently. Okay.

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

17 I explained that recently we have
18 experienced a 13 percent attrition rate. That talks
19 about how much experience is walking out the door.
20 The next slide demonstrates the national level of
21 experience for disability examiners. You can see
22 that most examiners have over ten years of

1 experience -- or over five years of experience, over
2 half do. Some have over 20. Another 15 percent, 10
3 to 20 years of experience.

4 So when you lose, especially, you know,
5 the people on the right side of this slide, people
6 with 10 and 20 years of experience, that 10 or
7 13 percent of attrition can be a lot of experience
8 walking out the door.

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

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

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

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

5 MR. OWEN: We will look at that.

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

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

14 MS. KARMAN: Extremely important.

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

18 MS. KARMAN: Yes, it is. We're going to
19 talk a little bit about our overall plans for the
20 project this afternoon. And one of -- one aspect of
21 that in our -- in Social Security's overall project
22 involves implementation. And you know, at that

1 point, we would be looking at policy development has
2 already occurred, and there has been work done
3 within the Agency among several components to, you
4 know, make sure policy is in place, make sure people
5 have been trained; and also to deliver that
6 information, you know, outside the Agency, so that
7 individuals who are representing claimants,
8 vocational experts understand what our new policy or
9 the new information is. So yes, absolutely.

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

15 MS. KARMAN: Well, I think, certainly, the
16 Panel will be considering the extent to which making
17 whatever the Panel is recommending operationally
18 feasible. I mean, that's certainly going to be a
19 major feature in what we're going to examine. And
20 Social Security will be in a position, then, to take
21 that recommendation and work with that, so that we
22 can make sure we're doing that.

1 MR. OWEN: And just so that I am clear,
2 even though the approach for training may be
3 different in all states, the core material that is
4 being taught in every state is the same. So the
5 approach may be different based on staffing levels,
6 but the core information is the same. And SSA, in
7 all fairness, does roll out regulation changes, new
8 business process changes, which have to be learned
9 and implemented in all DDSs; and they so far have
10 done that pretty successfully.

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

18 The number of cases that an adjudicator is
19 tasked with processing -- I mean, if you think 20
20 cases a week for an experienced adjudicator, that's
21 four cases a day. Four cases a day where they have
22 to read the adult disability or childhood

1 application. They have to synthesize the
2 information to determine what evidence might be out
3 there based on what they're being told that they
4 need to go out and request. They need to send out
5 those requests. They sometimes need to call the
6 claimant for additional -- or the applicant for
7 additional information that's not clear in the
8 initial information provided.

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

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

1 as possible.

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

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

1 the 15 year relevant period.

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

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

20 The Dictionary of Occupational Titles
21 everyone understands is outdated. You know, it's
22 been outdated for a long time. And it's not --

1 yesterday, I think there was a question, maybe it
2 was from Mr. Wilson about the percentage of jobs
3 that we can find in the DOT.

4 I just want to say something about that
5 also. I can't tell you the percentage of jobs that
6 are actually in the DOT that we see that exist, but
7 what I can tell you what's almost more confusing
8 sometimes for adjudicators is not the jobs that are
9 no longer listed in the DOT; but the jobs that are
10 listed in the DOT but they're no longer performed in
11 that way that they're described in the DOT.

12 I have an example of one case -- actually,
13 it must be back there. But everyone flies, right?
14 A lot of you probably had to fly to get here. When
15 you went to the airport and you went through your
16 little security check; they looked at your ticket;
17 they passed you through to go through the screening
18 check point.

19 Many, many years ago I used to manage what
20 we called screeners. Those were the individuals
21 that used to run the x-ray machines that would look
22 through -- look at your bags as you walked through.

1 The DOT describes that job as an SVP of two. A
2 specific vocational preparedness of two. That is
3 what we consider unskilled work.

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

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

19 So if you try to make a decision based on
20 using the DOT when so many parts of it still look
21 the same, we end up being in a position where we may
22 not be making correct decisions about

1 transferability of skills, or other things. So it's
2 essential that what we do have, though, is usable.

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

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

13 MR. OWEN: Yes.

14 DR. WILSON: For one week --

15 MR. OWEN: Yes. It is not, okay, you are
16 getting in 20 cases this week, so therefore, you
17 need to close 20. The performance standards are
18 usually based not on receipts, but the number of
19 clearances that an adjudicator clears. However,
20 from the position of an adjudicator, as you see
21 cases coming in, if you want to be able to manage
22 your case load, you know that you have to kind of

1 keep up with receipts, otherwise, it might get to be
2 unmanageable.

3 And in some cases, the receipts are so
4 large that they sometimes have to -- in the past
5 have put some cases basically on hold and not assign
6 them -- put them in a cue ready to assign. But it
7 is not the business that Social Security wants to be
8 in, putting people in cues. But there is some ways
9 to manage the case load.

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

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

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

1 obsolete or partially obsolete is the number one
2 problem?

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

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

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

20 If you had a mental RFC where the
21 individual was -- in the narrative it indicated that
22 the person might have some trouble being challenged

1 by the public in a job, and would do better with
2 superficial contact with the public. You know,
3 there is not a way to really find that job in the
4 DOT.

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

13 Because I can assume that there are
14 occupations that don't require any hearing and any
15 speaking, then the contact with other individuals
16 would be at most superficial; and therefore, might
17 meet, you know, the requirements to be cited for
18 individuals -- or occupations for individuals that
19 needed superficial contact with the general public.
20 But that was a huge work around to try to use the
21 tools at hand to identify jobs that might be -- or
22 occupations that might be good for this claimant

1 with their set of limitations. But it's a big hole.

2 I will take Ms. Lechner, and then
3 Mr. Hardy.

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

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

19 MR. OWEN: Currently, I'm not aware of any
20 such method of communication. I mean, ideally if
21 you could go in and change the DOT and update it, it
22 would be great, but we can't do that. Because we

1 really do -- in many ways the DDSs manage their
2 workloads independently, because there is really not
3 a pipeline of where you would send those kind of --
4 I mean, we know that the job is outdated.

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

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

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

22 Yesterday, Tom Johns described that a

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

17 What's more difficult are the -- another
18 kind of limitation that he referred to yesterday
19 when he was talking about reaching, you know,
20 whether reaching is at the table level or whether
21 it's overhead, or whether it's, you know, below;
22 whether it's one arm or if it's a bilateral

1 limitation. A lot of those -- how to deal with
2 those, a claimant with a medium RFC with one arm
3 limited to occasional reaching. How do we
4 programmatically deal with that? A lot of that
5 rests with the vocational specialists in the DDS.

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

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

1 that you thought that they might.

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

10 Mr. Hardy, sorry.

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

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

19 MR. OWEN: That's not correctly complete.

20 MR. HARDY: Okay. Could you explain?

21 MR. OWEN: Single decision maker states.
22 States who have the authority to use single decision

1 makers can make fully favorable decisions even in
2 mental cases if they're adult and it's a fully
3 favorable decision. What I mean when I say fully
4 favorable for those that might not be completely
5 familiar with the program is if a claimant alleges a
6 disability on a certain date, or they technically
7 are eligible beginning a certain date, say, January
8 1st of 1997. And a DDS is processing their claim
9 and determines, well, yeah, they say they were
10 disabled from January 1st of 2007. They stopped --
11 they weren't working. They technically met that
12 requirement to be eligible; but their medical
13 evidence shows that their impairment didn't really
14 progressively get worse to the point where they met
15 the standard for disability until, say, June 1st
16 of 2007.

17 So we might do a change of onset allowing
18 benefits to the later date. That's not a fully
19 favorable decision. A fully favorable decision is
20 when you allow --or that you find disability back
21 to the date that they were first technically
22 eligible and alleged to be disabled.

1 MR. HARDY: Okay. It sounds to me like
2 you guys are doing TSAs, right?

3 MR. OWEN: TSA, I'm sorry?

4 MR. HARDY: A transferable skills
5 analysis?

6 MR. OWEN: Yes, I am sorry.

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

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

11 MR. HARDY: Okay.

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

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

17 MR. OWEN: Yes, we do.

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

1 different softwares for doing TSA?

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

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

18 MR. OWEN: Correct.

19 MS. KARMAN: Right. We have a number of
20 different software programs that are available to
21 the adjudicators online through SSA's intranet; and,
22 you know, we send -- Social Security headquarters

1 provide the adjudicators across the nation with
2 instruction, procedures, and policy as to how they
3 are to use the several different software programs
4 that are out there, which basically serve Dictionary
5 of Occupational Titles information in a way that the
6 adjudicator can use, using our policy.

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

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

22 But I mean, ultimately they all end up --

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

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

1 job based on their previous work in order to site
2 that as transferable skills.

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

12 MR. HARDY: I think what I am trying to
13 get in my mind is if the OIS that we're developing,
14 if the end user, the first user is going to be DDS
15 person somewhere in Anchorage or in Alabama, and
16 it's got to be -- if we're looking at trying to get
17 parameters and get to a taxonomy that's going to be
18 workable, it's going to have to be one that is going
19 to start at that level. I am just trying to get
20 just kind of an understanding of what is happening
21 now, and what kind of training there is, and where
22 it goes from there.

1 MR. OWEN: Well, it would be great if you
2 could create this tool that we could consistently
3 rely on and use to determine what occupations have
4 transferable skills to other occupations. So that
5 even if -- I mean, even if the adjudicator continues
6 to have to take their program knowledge and policy
7 understanding to determine which of those jobs on
8 that list meet the program requirement if the OIS
9 project could create software that told you, okay,
10 these generally are the occupations that have
11 transferable skills from this occupation that you
12 are citing as their past work. That would be
13 greatly helpful in -- and representative of a number
14 of jobs that exist in the national economy. That
15 would be greatly helpful to the adjudicator or
16 examiner in determining whether the claimant has
17 transferable skills or not.

18 Mr. Hardy, go ahead.

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

21 I guess this is a policy thing. You are
22 saying that the decision at the DDS level is only

1 when it's fully favorable. If we moved ahead with
2 what we're talking about, would there be a change in
3 policy for --

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

7 MR. HARDY: Okay.

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

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

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

1 Outside of those SDM states,
2 adjudicators -- outside of the SDM states, the
3 adjudicator may help complete any of those forms,
4 but a medical consultant's signature is required on
5 all of the forms. So in the medical decision,
6 determining the limitations, a physician may or may
7 not be involved.

8 It's the adjudicator, then, though, who is
9 tasked with taking the information about the
10 limitations at steps four and five, and determining
11 whether or not, with this set of limitations,
12 whether the claimant can do the past work as they
13 performed it, whether they could do the past work as
14 it is generally performed in the national economy.

15 Whether the claimant has -- and if not,
16 whether the claimant has transferable skills; and if
17 not, whether there are other occupations that exist
18 in significant numbers so that the claimant can be
19 found disabled or not disabled using the grid to
20 make that decision sometimes as a framework.

21 Ms. Lechner.

22 MS. LECHNER: Let's fast forward and say

1 that, you know, at some point in the future we have
2 an updated DOT. If the DDSs were provided with the
3 technology and the personnel, do you see the DDS --
4 could you see the DDSs having a role in maintaining
5 an updated DOT?

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

13 But that model or that question suggests,
14 perhaps, a model to where we might be able to say,
15 okay, we have seen this job repeatedly. It looks
16 like it's consistent, not just with this claimant
17 that describes being a secretary, but happy to carry
18 boxes down on the dock; but this consistent job
19 description from several individuals, I would say
20 that I wouldn't want the adjudicator to be
21 responsible for updating something, communicating
22 that, and then maybe having it go to some sort of a

1 vocational expert and not a specialist. Someone who
2 is really trained and understanding and reviewing
3 to, then, update. Because if you are talking about
4 an application that all DDSs are using, you would
5 want to have pretty specific controls so that
6 changes didn't get made nilly willie that resulted
7 in bad decision making across the U.S.

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

18 It seems as, though, you all deal with
19 this data on a day-to-day basis. You have a lot of
20 rich information that we should tap into as we move
21 forward, and as a system is developed, then, if it
22 were linked in some way, you know, again, given the

1 correct resources. Not trying to overload an
2 already overloaded system; but given the correct
3 resources and personnel and technology, that you all
4 can play a vital role in maintaining a really, you
5 know, good solid database.

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

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

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

1 Mr. Woods.

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

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

21 Also, just as an aside, initially when I
22 thought 13 percent attrition rate, I was thinking,

1 my gosh, what is the system doing wrong that so many
2 people are leaving. After you went through the
3 process, now I am wondering why it's as low as
4 13 percent.

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

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

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

21 If you think about the time that that
22 might take in conjunction with having -- or

1 processing four claims in a day, the ability to use
2 a tool and to refer to a tool, maybe printout
3 something from the tool to show you how you got to
4 where you went might be extremely helpful.

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

21 Then, we also, of course, as Tom Johns
22 said yesterday, we rely a lot on the SVP rating on

1 those occupations in determining, first of all,
2 whether we can even consider whether there is
3 transferable skills, because if it has an SVP of one
4 or two, we say it is unskilled work. Therefore, you
5 cannot have skills transfer from unskilled work.
6 Therefore, we are also reliant very much on the SVP
7 level or rating in the DOT.

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

22 The DDS needs a tool that reflects the

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

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

1 Dr. Schretlen.

2 DR. SCHRETLEN: Schretlen.

3 MR. OWEN: Schretlen. Sorry.

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

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

20 I think that it would be very helpful --
21 you gave the example -- the concrete example of a
22 screener. And it would be helpful to me as a

1 panelist to hear more about those kind of examples,
2 the range of examples of -- concrete examples in
3 which the DOT descriptions are not working, so that
4 I have a better -- a better kind of visceral sense
5 of where it fails and how it fails.

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

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

18 Ms. Lechner.

19 MS. LECHNER: You know, when I think about
20 the DOT as it's used today, and some of the
21 limitations, I think, you know, you hit on the fact
22 that there are new occupations that aren't included

1 in it. We have also all talked about occupations in
2 it that no longer exist. We have talked about the
3 fact that there are in some -- for some occupations,
4 it's broken down into too much detail. We have
5 talked about descriptions that are there that aren't
6 accurate.

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

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

22 MR. OWEN: And I think to assist that, I

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

8 MS. LECHNER: Right.

9 MR. OWEN: Mr. Wilson.

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

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

22 MR. OWEN: I don't think that currently

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

10 DR. WILSON: Right.

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

15 DR. WILSON: Exactly. I was just trying
16 to get an idea of what our options may be in terms
17 of -- because you are right, there is different
18 levels of cognitive functioning that would be
19 required to make some of these decisions. It could
20 be that -- it could be we're talking about, you
21 know, whatever number of cases that, you know, you
22 would need real expertise; and just sort of

1 continually push that down to, you know, 52
2 different levels, you know. It might not always be
3 necessary. It might not be -- just kind of thinking
4 off the top.

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

10 DR. WILSON: Right.

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

20 But I have worked on cases in the past
21 where at the vocational step that you see something
22 that a specific task -- say that you remember

1 reading something in the medical evidence that
2 would not support their ability to do that
3 individual job. It's at that point you realize
4 that, perhaps, there was a mistake on -- in not
5 considering that when the earlier -- the medical
6 forms were considered. So if you had the RFC and
7 the PRTF -- the residual functioning capacity, the
8 psychiatric review technique form -- the mental
9 residual capacity form completed by the DDS, and
10 then you transferred the case for vocational
11 analysis to somewhere else, you could risk the
12 complete understanding of the case that sometimes
13 you do work backwards to go, oh, that's not fair to
14 the claimant. We missed something.

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

19 DR. WILSON: I wasn't necessarily saying
20 that both parties might come to the actual
21 determination, but that whatever -- whoever made the
22 final determination might have access to more than

1 one source of information as they looked at this
2 stuff. Or even -- you know, there is a lot of stuff
3 going on with content analysis documents. It could
4 be that, you know, you are right, your best
5 examiners are going to pick up on some of those
6 task. You know, others might not. But by going
7 through some sort of content filters, you might be
8 able to really focus people in on, pay attention to
9 this; the various facets of the medical record might
10 relate to the vocational stuff.

11 MR. OWEN: Ms. Gibson.

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

21 So it sounds like the potential may be
22 there to utilize a system or maybe create a system

1 that takes advantage of those types of networks that
2 are built into EMR as well, which would help the
3 adjudicators actually use the same type of decision
4 making process, if we can build it in.

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

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

9 MR. OWEN: Any other questions?

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

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

14 DR. FRASER: Yes.

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

19 I mean, one thing that we have actually
20 done in some DDSs is we are rehiring some
21 adjudicators that retired, and having them come back
22 to help us deal with the increasing number of

1 receipts. But you know, that also can be
2 complicated by state rules about whether you can
3 retire and then work again for the state, and those
4 complications there; but yeah. My director in our
5 state, I think, left because it was more profitable
6 not to be working there anymore, because she had
7 worked there 35 years. But it's, obviously,
8 something that we face every where, including the
9 DDSs; which I am sure attributes, in some part, to
10 the attrition rate.

11 Any other questions?

12 Thank you for your time.

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

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

17 (Whereupon, a recess was taken.)

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

22 Good morning, Judge Hatfield.

1 JUDGE HATFIELD: Hi. Good morning, Debra.
2 Yes, I am the hearing office Chief Judge
3 in a place called Seven Fields, Pennsylvania. It's
4 a suburb of Pittsburgh. It's a new office. I just
5 want to let you know that we are actually in Mars.
6 If anyone knows Pennsylvania. Pennsylvania is sort
7 of thousands of cobbled together townships that
8 create the state. So we have these dilemmas of who
9 we are.

10 The Seven Fields office is actually an
11 Adams Township, but on Seven Fields Boulevard, which
12 is across the street. Our mailing address is Mars.
13 We didn't think really the decision should be coming
14 from Mars. We settled on the name of Seven Fields.
15 It is a little more politically -- although, out of
16 the world adjudications might actually have been a
17 nice title.

18 I want to thank everyone for inviting me.
19 I also want to -- very, very pleased. As an
20 adjudicator in the system, I am very, very pleased
21 that this Panel has been convened. I am very, very
22 pleased that Commissioner Astrue convened this

1 Panel, because at the Administrative Law Judge
2 level, we sit primarily in the sequential evaluation
3 process at steps four and five.

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

13 Okay. It says press hard. I really
14 pressed hard, but I did do it. Okay.

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

22 As was mentioned before, the hearing

1 before an ALJ is the third step in the
2 administrative review process, following review at
3 the initial and reconsideration levels.
4 Pennsylvania is one of those ten states that
5 Mr. Johns eluded to before, prototype state.
6 Actually, folks, in Pennsylvania, if they are denied
7 initially, they appeal, they go straight to an
8 Administrative Law Judge hearing.

9 This isn't on the slides in your
10 materials, but I thought based on some discussions I
11 heard, sort of what is ALJ? You know, who is this
12 person. An Administrative Law Judge is a judicial
13 officer in the executive branch, not the judicial
14 branch. So we're essentially fact finders. We are
15 listening to the evidence, making findings of fact
16 in a decision. We don't make law. We don't reverse
17 law. We merely follow the law and the Regulations
18 promulgated by the Commissioner. So if those
19 Regulations, if we happen to disagree, it's too bad;
20 we're bound to follow these Regulations until,
21 perhaps, a District Court or Circuit Court
22 overrules it.

1 Administrative Law Judges is, however,
2 insulated by the APA, Administrative Procedure Act.
3 It really was intended to insulate fact finders from
4 any kind of political interference from the Agency.
5 So that insulation protects us from, for instance,
6 an Agency telling us how many cases to pay or how
7 many cases to deny. But that's the insulation.
8 It's really -- it has nothing to do with, for
9 instance, our following the rules and regulations
10 that the Commissioner promulgates. We are bound by
11 those rules. We look at those rules. We apply
12 those rules to the evidence before us.

13 Basically, what happens -- and this is
14 sort of a retreat. I will just go through this
15 quickly; but essentially, if a claimant is
16 dissatisfied with the DDS determination, they can
17 request a hearing before an ALJ. And person goes
18 into the field office, fills out a form; and the
19 form is sent to the hearing office.

20 The hearing office looks at the form to
21 make sure there isn't any procedural hurdles we have
22 to overcome before we give this person a hearing.

1 For instance, there is a 60 day filing requirement.
2 If they don't meet that, we look to see if they have
3 good cause for not filing timely. There are some
4 issues where we have to see if procedurally they
5 have a right to a hearing.

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

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

22 We are at record highs in dispositions.

1 Everybody is working extremely hard. It is just
2 that more are coming in than are getting out.

3 I will tell you, too, just to give you an
4 idea of the magnitude of this process. We have
5 approximately 1100 administrative law judges in the
6 Social Security Administration. My understanding is
7 in the entire government there is only 1300 or 1400.
8 So we constitute over 80 percent of the entire
9 administrative law judge core in the government.

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

16 So we do try to call out those cases that
17 those folks are in desperate need for an allowance,
18 the evidence supports that, and we can just go ahead
19 and pay them without the need of a hearing. We also
20 sometimes will send out interrogatories to medical
21 experts or vocational experts. They can also form
22 the basis of an on-the-record decision.

1 Basic hearing procedures. Just a few
2 things. First, is that the hearings are held in
3 person. Some are by video conferencing. We have
4 video in virtually every hearing office, and in
5 every hearing room now in the country, and in some
6 remote sites. So video conferencing can certainly
7 help us to meet the demands of this workload. We
8 can move work around, help out offices that are in
9 need of that, et cetera.

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

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

20 Generally, at a hearing there is an
21 Administrative Law Judge, the claimant, a hearing
22 reporter, and then any witnesses that the claimant

1 wants to bring in; and then experts as we need them.
2 And I will go into that in greater detail. If
3 anybody has any questions while I'm talking, please,
4 just interject.

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

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

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

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

1 represented by counsel.

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

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

18 We ask questions very -- a lot of
19 questions. We have to know the file in order to ask
20 the right questions and to get to the truth of the
21 matter. So it's not adversarial. So in that
22 regard, it's informal. There is no rules of

1 evidence. We don't follow any rules of civil
2 procedure. At the same time, we get a record of the
3 hearing, so it's taped. Parties are taped -- put
4 under oath. So they are sworn in to tell the truth.

5 But in essence, it's a fairly informal
6 process. I try to make my hearings as comfortable
7 for the claimant as possible, so the claimant can
8 tell his or her story and not feel intimidated.

9 Another point is that it's de novo. I
10 think that's a very important point in the
11 adjudication process. We are not -- the judges are
12 not here to determine whether the DDS was correct or
13 not. That's not the standard. A totally de novo
14 hearing. Our job is to look at the case afresh.

15 Certainly, the DDS adjudication, any
16 medical opinion that's attached to the adjudication
17 would be looked at by us and is the evidence; and
18 certainly, we could weigh that opinion based on the
19 totality of the evidence. But our job is not here
20 to determine whether it's correct or not. It's a
21 totally fresh look at the claimant. I think that's
22 an important point to remember.

1 The hearing itself, as I said, is
2 informal. The ALJ makes an opening statement.
3 Basically tells the claimant what the issues are.
4 We take evidence under oath, as I said; and then
5 there is closing statements. The representative has
6 an opportunity to question, obviously, the claimant
7 and any experts that are there, and make closing
8 arguments, send in prehearing briefs, and the like.

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

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

20 So before we schedule a hearing, the judge
21 reviews the file, determines if additional evidence
22 is necessary; and also whether any kind of experts

1 are needed at the hearing. So we're looking at the
2 case to determine whether an expert would guide us
3 into the decision making. In the vocational arena,
4 they guide us into decision making as to the
5 vocational issues in the case.

6 These numbers are rather telling, I think,
7 on the process. We had medical experts in about
8 17 percent of the hearings. But vocational experts
9 were in about 72 percent of the total hearings held.
10 That's a high number; and it's even actually higher
11 when you think we also do SSI children cases. For
12 children, the issue of work is irrelevant, whether
13 they can work or not. So a vocational expert is
14 inappropriate. That's about, I was going to say,
15 close to 10 percent of our workload. We had another
16 percentage of our workload which are nondisability
17 issues.

18 Any person who is dissatisfied with any
19 part of the Social Security Act for that matter can
20 file a request for hearing. So we get cases on
21 things such as overpayments, whether the child is a
22 child of the wage earner, whether the marriage is a

1 common law marriage, whether the widow is actually
2 the widow. Those kinds of things come up. That's
3 about five percent. So if you eliminate those types
4 of hearings, which vocational experts are
5 inappropriate, we're probably talking more in the
6 areas close to 90 percent.

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

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

19 They're not my expert. They're not the
20 representative's expert. They are an impartial
21 expert just there to give impartial testimony to
22 guide me in decision making as to the issues in the

1 case. Even though they're paid by the Social
2 Security Administration in a contract, they are not
3 our experts. What they do is they get a blanket
4 purchase agreement. Basically, once we determine
5 that they meet the qualifications, our regional
6 offices set up an agreement, usually for a year or
7 so, so that they can do vocational expert testimony.

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

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

21 Claimants and representatives are notified
22 in advance of a vocational expert. So for due

1 process reasons, the claimant is to know that this
2 person is going to be there, and they're going to be
3 talking about expert testimony. Yes, sir.

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

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

17 They might bring some lay witnesses on the
18 claimant's behalf, but it's rare that they bring in,
19 for instance, the treating source, or vocational
20 expert. Now, they could submit that by -- in
21 writing, and representatives do that. On great
22 occasions they will send out request for functional

1 capacity evaluations, for instance, from a treating
2 physician. Or they might go to a vocational expert
3 and ask them certain questions and then submit that
4 in writing; but it's rare that they're at the
5 hearing.

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

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

21 A good example I always give, in
22 Pittsburgh we have the Primanti sandwich. I don't

1 know if anybody knows the Primanti sandwich. You
2 should, because it is the best sandwich in the
3 world. Basically, they put everything in the
4 sandwich. It is for the truck drivers to eat in
5 their cab. They put the French Fries, and the meat,
6 the sauerkraut, and everything. Well, those things
7 are heavy. The waitress are carrying those things,
8 they are like 50 pounds.

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

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

20 If they can't do their past work, an ALJ
21 will employ a VE to determine whether the claimant
22 can perform other work that exist in the national

1 economy. Again, as Mr. Johns said, the burden of
2 going forward with the evidence shifts to the Agency
3 at that point to specifically state whether there is
4 a significant jump -- a number of jobs that exist in
5 the national economy or not.

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

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

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

17 So if the person is age 55, is limited to
18 sedentary work, has a limited education, and
19 unskilled work experience, they're going to --
20 they're going to be found disabled based on the
21 grid. We could get a vocational expert in there,
22 and I'm telling you a vocational expert will

1 probably give you some jobs based on, perhaps, that
2 residual functioning capacity; but we can't do that
3 because the grid rules are irrebuttable.

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

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

17 I see almost all my cases that don't --
18 that don't fall out and are paid based on a grid
19 rule directing. If they don't, they're usually in
20 the framework area. And in the framework area, as
21 we said before, we need some sort of guidance to
22 discharge this burden that we have at step five to

1 determine whether a significant number of jobs exist
2 in the national economy.

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

11 The fact that the job exist in many
12 numbers, or hardly exist, or doesn't even exist is
13 irrelevant at step four. I think the example
14 yesterday was given in the Supreme Court case about
15 the elevator operator is a good one. The fact that
16 there aren't any -- many elevator operators left is
17 really immaterial at step four. The issue there is
18 simply -- does -- the claimant's residual functional
19 capacity, comparing that to the demands of the job.
20 If they can do the demands of that job, and it was
21 past relevant work; then, they must be found not
22 disabled at step four.

1 At this point also, the VE will give us a
2 variance in the description of the particular job.
3 If it suggest -- the evidence suggest that the
4 inability to perform the job differently than the
5 DOT, I'm going to get into that a little bit more
6 specifically; but that's what we were talking about
7 this morning, about the DOT being outdated, and not
8 having -- describing really the skills, and the
9 exertional level that is in -- the job as presently
10 constituted. And we do that even at step four.

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

19 Just in italics there is the description
20 of jobs. It is up to the ALJ to determine whether
21 the work is past relevant work. Based on those
22 three prongs that Mr. Johns talked about yesterday,

1 that the work has to be substantial gainful
2 activity. It has to be performed within 15 years of
3 the date of adjudication; and that has to have been
4 performed long enough to learn how to do it.

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

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

22 So I see them as -- honestly, as a cheap

1 insurance policy really in terms of if that case is
2 going to be found to be not disabled, I want to be
3 able to discharge my responsibility, my burden to
4 show that other jobs exist. I have the vocational
5 expert there to guide me in that area. So I don't
6 want to be winging it. I want to make sure that my
7 findings of facts are supported by evidence. So I
8 will have a vocational expert there in virtually
9 every case.

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

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

22 So what we do is when we get a vocational

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

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

16 So I am going to be asking hypothetical
17 questions that may or may not be grounded in the
18 evidence. I have gone into this hearing open
19 minded. I have given this claimant a due process
20 hearing. I want to hear all the evidence. I want
21 to hear all the testimony. This is the first time
22 the claimant has had an opportunity to be in front

1 of someone face-to-face, and tell them why they
2 think they're disabled. So all of that testimony is
3 extremely important in the determination as to
4 whether this person is disabled or not disabled.

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

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

19 So I am asking a series of hypothetical
20 questions; one of which will probably be my residual
21 functional capacity in the case, which will then
22 drive me to the decision as to whether they're

1 disabled or not. That's kind of the way we operate.

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

3 I want to talk a little bit about this
4 conflicts in the VE testimony. I think this is
5 really germane to what the Panel is here for. Just
6 to give you an idea maybe from a field perspective.
7 As Jeff Blair had indicated yesterday, there was a
8 lot of litigation on this issue of vocational expert
9 testimony not jiving with the DOT.

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

21 If they say that it is consistent, fine.

22 If they say it's not consistent, then, we have to

1 ask them for an explanation of why it is not
2 consistent. Then we have to decide whether that
3 explanation is reasonable.

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

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

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

22 So at least from my standpoint, it's --

1 this panel is just very, very critical in helping us
2 in the field to adjudicate properly and
3 consistently. So we are bound to ask that question
4 and then get certain information.

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

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

17 But vocational experts have told me that
18 the job now with technological advances and such, is
19 really an unskilled position; usually learned in 30
20 days or less, which would give it an SVP level of
21 one or two. That's the example I gave in that
22 particular decision.

1 Of course, that's extremely critical,
2 because if the person's residual functioning
3 capacity that I find where they are limited to
4 unskilled duties, for instance, in the cognitive
5 area, I can't rely on a job, such as telemarketer,
6 perhaps -- I can rely on the job as telemarketer;
7 but I couldn't of under the DOT, at least under that
8 testimony. It works both ways. It cuts both ways,
9 sometimes these skills and exertional levels are
10 different. They are in the favor of the claimant.
11 Sometimes they're not in the favor of the claimant.

12 Just to give you an idea of these
13 hypothetical questions. We will ask the VE, again,
14 to -- sort of the hypothetical question based on the
15 claim. A person of similar age, education and
16 previous work experience with ability to perform
17 sedentary work as defined in the regulations. We
18 use sort of shorthand in our hypothetical questions.

19 Sedentary work is a long definition in the
20 regulations and the rulings describing the seven
21 exertional demands. Since we have already put this
22 person on the stand as an expert in vocational

1 evidence and knows the DOT, we presume that they
2 know the -- the regulatory definition of sedentary
3 work, which is really those definitions came out of
4 the Dictionary of Occupational Titles. Again why
5 the Dictionary of Occupational Titles is so
6 important in the adjudications.

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

17 Then they will say, there is occupations
18 that exist or there are no occupations that exist.
19 Where did I get these kinds of limitations? Well, I
20 might have pulled them out of the file from a
21 functional capacity evaluation, maybe even a
22 consultant examination that the Agency sent the

1 claimant to; and then that person describe what he
2 or she thought the claimant could or couldn't do.

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

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

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

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

21 It is usually defined as a person who is
22 not on the task that they are being handed to in the

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

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

15 The critical part here is what the answer
16 is. And so in this particular one somebody being
17 off task more than that is unacceptable in a typical
18 work environment. The vocational expert might
19 answer that question that way, that based on their
20 surveys and placements that somebody has to be on
21 task except for breaks in the morning and afternoon
22 and at lunch, or something like that. So we get

1 testimony -- specific testimony as to what that
2 means.

3 That's a good question because -- and
4 this, again, goes to sort of consistency and
5 uniformity. Some vocational experts will testify,
6 perhaps, to a different standard.

7 I will tell you something very -- it just
8 seems obvious, but absenteeism. And this is, again,
9 something maybe an action item or whatever you guys
10 might want to think about is that's a very important
11 ingredient if you are going to work, whether you are
12 going to be there at work. Ask a vocational expert,
13 what is an acceptable tolerance by an employer for
14 entry level unskilled position -- the positions you
15 just testified to -- and you will get varying
16 responses honestly.

17 So there are certain elements, at least
18 from an ALJ standpoint, that I would like to see at
19 least discussed and maybe come up with some sort of
20 national uniform acceptable position on those
21 things, absenteeism, being able to be on task, what
22 is an acceptable tolerance rate of being on task,

1 those kinds of things.

2 Just one other hypothetical question.

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

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

1 have discharged my responsibility in that direction
2 as well.

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

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

17 DR. GIBSON: Sorry to interrupt. A
18 question, Your Honor. You may not be the best
19 person to answer. It may be an answer from
20 yesterday. I was just sitting here doing the math,
21 and going back to step one of this -- I was just
22 seeking clarification -- at step one with

1 substantial gainful activity, is the person
2 currently involved in it? We say the person is
3 capable of becoming a file clerk. Assuming a file
4 clerk pays minimum wage, which is five dollars and
5 change an hour. That works out to a monthly income
6 which is less than the substantial gainful activity
7 level criteria we needed.

8 JUDGE HATFIELD: Right.

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

16 JUDGE HATFIELD: No; no; it's a good
17 question in term of the SGA amounts in some way
18 exceeding minimum wage. Basically, they are out the
19 door if they are doing SGA. It is not like they
20 have to -- if they earn that amount, or as Tom said,
21 a penny more than the amount, then, they are deemed
22 to be doing SGA.

1 At step five, we're really not interested
2 in that. All we're interested in is whether the
3 person -- whether they're a significant number of
4 jobs that exist that this person could do given
5 their residual functional capacity. Pretty much all
6 what the law says. So if there are occupations out
7 there that represent significant numbers, you know,
8 we're forced by law to find that that person is not
9 disabled.

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

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

1 definition?

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

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

19 MR. HARDY: Is there a definition of
20 regions?

21 JUDGE HATFIELD: It's in the region where
22 you live is how the Regulation is stated, but it is

1 not in the immediate area. So for instance, it's
2 irrelevant whether their job is down the street from
3 the claimant; but it is relevant in the region where
4 they live. In Pittsburgh, we usually get the --
5 sort of the tri-state area of Pennsylvania, West
6 Virginia, and Ohio. We're just about up on Ohio.
7 So that tri-state area is our region that we ask for
8 jobs. Sometimes I will also ask for also state jobs
9 in Pennsylvania. That's another region in the
10 national economy. But if it's significant numbers
11 in the region where they live, or in several regions
12 of the economy, constitutes national.

13 MR. HARDY: Thank you, sir.

14 JUDGE HATFIELD: Yes.

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

19 The individual has a right to question the
20 vocational expert too. So the claimant or their
21 appointed representative if they have one, will also
22 ask questions of the vocational expert. And

1 usually, the dialogue happens is they will -- they
2 will, for instance, maybe question particular jobs
3 that the vocational expert has noted. They might
4 try to poke a few holes into that testimony as to
5 whether those jobs really can be -- those jobs
6 really are -- can be done based on the hypothetical
7 question that the judge gave them. They will also
8 ask additional hypotheticals, perhaps, that the
9 judge hasn't asked.

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

21 And then, finally, the ALJ decision. The
22 regulations require us to write a decision that's

1 based on findings of fact and evidence in the
2 record. The decisions that -- the samples that are
3 in your materials follow this particular format.
4 Basically, the procedural history of the case, the
5 statement of issues, applicable law, et cetera.

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

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

21 As I said, the examples in your material
22 show one where the VE's testimony found that there

1 are no jobs based on residual functional capacity;
2 and the other cases where there were jobs found.

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

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

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

22 So the same pay scale existed -- I know I

1 started with the Agency in 1976. I think it was
2 about that at that time.

3 DR. FRASER: That would be like less than
4 50 percent of what a private sector VR counselor
5 makes in our area. In the northwest -- our area --
6 thanks.

7 JUDGE HATFIELD: You bet.

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

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

21 Part of that, I think, is this framework
22 issue that people have discussed, where we either --

1 once we get to the framework in the rules, we have
2 to have some evidence in the file to show that jobs
3 exist or don't exist. We can't take administrative
4 notice at that point.

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

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

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

16 MS. KARMAN: Oh, okay.

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

19 MS. KARMAN: That's correct.

20 JUDGE HATFIELD: Yes. So the DOT doesn't
21 give us much guidance on that. So for instance, if
22 you have a person with a bad back, like me, who has

1 to sit, perhaps, maybe for an hour, has to get up
2 for 15 minutes, sit back down. Or 15 minutes
3 every -- or sit and stand every 15 minutes. That
4 cuts across the exertional categories, because
5 sedentary presumes someone sits for six hours out of
6 an eight hour day. And light presumes they stand
7 and walk six hours out of an eight hour day. So
8 they are really not -- it's sort of in between
9 sedentary and light.

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

22 Other types of limitation such as -- for

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

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

19 JUDGE HATFIELD: Okay. That's a good
20 question, because what happens is a lot of things
21 change in the process. Claimants get worse, for
22 instance. New evidence that happens. Or as I said,

1 it is de novo. So in theory and in practice the DDS
2 might find that this person can do medium work as
3 that's defined in the regulation. We look at the
4 evidence, and perhaps, find that the preponderance
5 of the evidence supports light, for instance. And
6 if that is the case, if it is a light exertional
7 category, they might be found disabled under the
8 grid. That's how those cases sort of come up.

9 Any other questions?

10 Thank you very much.

11 MS. TIDWELL-PETERS: Thank you, Judge.
12 Thank you, sir.

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

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

20 Good morning, Judge Lowe.

21 JUDGE LOWE: Good morning. My name is
22 George Lowe. I am on the Appeals Council. I am one

1 of, roughly, 33 appeals judges that sit on the
2 Appeals Council. We're assisted, as I am sure you
3 can guess, by a very good abled staff, which we
4 don't have a lot of attrition -- as I was listening
5 to this morning's presentation -- except by virtue
6 of retirement, which faces the Social Security
7 Administration generally right now.

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

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

18 The Appeals Council sits there between
19 when they have the de novo hearing and when someone
20 may want to go to Federal District Court to seek
21 judicial review. Our job is one, I think that in
22 terms of numbers is substantially less than you

1 heard this morning. We're down from the millions
2 that are initially filed that the DDSs have to look
3 through. We are down from the hundreds of thousands
4 that go to the hearing level.

5 Generally, our number -- just to reflect
6 to the current numbers, and we will get to them in a
7 second -- generally they range between 90 and
8 100,000 request for review annually. To give you a
9 little look forward, the court numbers result after
10 us generally are anywhere from 12 to 15,000. So
11 it's quite a step down at this point.

12 Representation is even higher. I would
13 say representation probably increases well over
14 90 percent on cases that come to the Appeals Council
15 as people get ready to go possibly to court.

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

22 If you think of what we are confronted

1 with at the Appeals Council -- and also I would have
2 to say the claimant, for the first time, they now
3 have a full rationale provided to them in a very
4 well-articulated decision by a decision maker about
5 what he or she thinks is the appropriate facts and
6 statement of law in their case.

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

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

20 So for the first time everyone is looking
21 at all sides of this, both from the claimant's
22 perspective, and the government's perspective, at

1 the full panoply, if you will, of what did transpire
2 at the hearing, and all the evidence in the record.
3 To some extent the role of the Appeals Council is a
4 little bit different than what has been echoed here
5 by the previous two witnesses.

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

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

21 At the end of the first day the man had
22 painted, roughly, three miles of white lines. The

1 employer was very impressed with his performance,
2 complimented him, and paid him well. He came out on
3 the second day and he only did two miles of white
4 lines. And on the third day he only did one mile of
5 white line.

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

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

21 So sometimes those hypothetical questions
22 are the ones you really do have to ask.

1 Okay. Let's just kind of start running
2 through the overheads here. See if there is any
3 questions about what we do. The AC is looking at
4 cases from the two major programs that Social
5 Security Administration is involved in. As we noted
6 before, it goes through the reconsideration stages
7 in many of the states, the hearing level, and then
8 the review by the Appeals Council. Excuse me.

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

19 We have assisted the quality assurance
20 people within the Agency by looking at these kinds
21 of cases. Sometimes they're based on random
22 samples, and sometimes they are based on a quality

1 assurance assessment of where a specific issue seems
2 to be having some difficulty in being decided in a
3 consistent manner. We do look at those cases for
4 them.

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

14 And there are cases like that where the
15 individuals age changes. So he or she may know that
16 as the time has changed there, that they're going to
17 get paid for part of their benefits. They're out
18 there adjudicating differently trying to get the
19 earlier part to come out in their favor. So you
20 could certainly have those kind of scenarios, and
21 they will often arise in the age 50, age 55
22 category.

1 Okay. The make up of our staff is
2 basically the 33 judges I mentioned, and we have a
3 very well-established cadre of analysts that do
4 analytical work looking at cases trying to
5 determine, based on their appraisal, of whether the
6 case was correctly decided. They look for legal
7 errors in those cases more than anything. They're
8 looking to make sure the appropriate regulations
9 were applied. They look to make sure that the
10 testimony was exactly what was called for in the
11 decision.

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

19 We don't limit ourselves to just those
20 issues. We look through the case for an entirety to
21 see if it was legally decided correctly and whether,
22 in fact, there is substantial evidence in that case

1 to support the final outcome. That is the bottom
2 line in the case.

3 In addition to that, we have a lot of
4 administrative duties that fall to our staff. We
5 control paper files which are, in fact, getting
6 fewer and fewer. I think we're down to probably
7 40 percent of our files now are on paper at the
8 council level, and 60 percent electronic.

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

19 This next slide is right out of the
20 Regulations. This tells you when the Appeals
21 Council will review a case. If we see an abuse of
22 discretion by an ALJ in an area of law, or that the

1 conclusion was not supported by substantial
2 evidence. If we're going to take review -- and I
3 think you will see in a few more slides that we
4 agree with what was done at the hearing level in the
5 vast majority of cases. I think the percentage
6 that's coming out is roughly a little over
7 70 percent. We agree with the way it was handled.
8 We agree with the bottom line that was reached in
9 those cases.

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

19 We do not hear the cases, anew basically
20 at this level. We can, but I think you can well
21 imagine that it would take a lot of time and
22 resources. Much better served if we can simply make

1 a new decision if we need to without having to send
2 that case back for a hearing.

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

10 They probably don't expect too much from
11 the Appeals Council, and low and behold they get
12 this thick package in the mail with a nice favorable
13 decision or a change in decision that may be
14 partially favorable before them. As I say, that's
15 between two an four percent, which can be up to
16 4,000 cases a year that can be disposed of in that
17 manner.

18 We also get a lot of new material that's
19 filed for the first time at the AC level. We're not
20 a de novo hearing-- I would like to make that
21 clear -- but we do have an open record. When that
22 new material comes in, it's usually medical in

1 nature. It is the type of contentions that I
2 mentioned before where people for the first time had
3 been able to reflect on the rationale used at the
4 hearing level, and are able to make arguments about
5 whether it was right, wrong, or provide whatever
6 their slant is they want us to look at.

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

22 We will tell them what our proposed

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

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

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

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

20 JUDGE LOWE: Well, I think we see
21 something like that, to reflect on the process we
22 are existing at now where Regulations change in

1 mid-course, if you will. A case may have been
2 evaluated at the DDS and/or hearing level under a
3 prior regulation, but now the Agency has promulgated
4 a new listing, or some type of new Regulation that
5 impacts on the outcome of that case.

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

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

1 of that case.

2 Okay. Just a reference here in terms of
3 what we are doing in the volume I mentioned before.
4 We see in the most recent fiscal year a little over
5 90,000 cases that have asked for review. We're a
6 little behind on processing, which I am sure is
7 something that you are keenly aware of at probably
8 every phase. This is not where we would like to be.
9 Certainly, our goal is 100 percent.

10 We need a little bit of what I call cases
11 sitting in the pipeline in order to keep everyone
12 active and keep things moving. Our average
13 processing time does continue to move downward. I
14 think if you went back several years, to our
15 embarrassment, it was probably up over 365 days on
16 that bottom line. Probably we have reduced it to
17 238 at our level.

18 Some of that time includes, obviously,
19 sending materials out that are requested to
20 claimants, waiting for them to get back any kind of
21 a response. Sometimes we also go out for additional
22 medical advice, and this has to do with the --

1 claimants usually sending in more medical advice
2 where we may want to consult with an expert to see
3 if it is outcome determined.

4 Some of the cases, then, can be paid at a
5 listing level, and are paid at a listing level if
6 they can be. So the time isn't just unused time
7 that's sitting here. I think it's value is being
8 used by all sides.

9 This is in the most recent year. What
10 happened to those cases? A little over 70 percent
11 resulted in a denial of review. A denial of review
12 means the individual then can go on to the courts if
13 they wish. We basically said we agree with the
14 outcome of the Administrative Law Judge's decision.

15 Dismissals, less than three percent.
16 These are cases where they're either untimely -- I
17 don't mean by one or two days. I don't think anyone
18 is that picky. Some of these cases are one or two
19 years between when the ALJ may have decided the case
20 and when someone sends in a request for review.

21 Of course, we always write back, again,
22 and ask for, well, what is your good cause on this

1 case for being late? If we don't hear anything or
2 they can't establish it, such as they have been in a
3 comma for two years, they're probably going to end
4 up with a dismissal.

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

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

20 Yes, you can tell the person is getting
21 worse, but did they get bad enough that they have
22 moved down in the exertional category? Or now they

1 have a mental impairment they didn't have before.
2 We don't have VE testimony on that particular point.
3 This is now a whole new nonexertional area. So we
4 have to send those kind of cases back for those
5 issues to be further developed.

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

15 But at the same time if it's necessary --
16 I think as Judge Hatfield said, he likes to have a
17 lot of VE testimony -- or VE testimony available.
18 It's generally true in the cases I see, at least,
19 when they come back up on remand if they're not
20 fully favorable, we will either see a medical expert
21 and/or a VE expert lend additional testimony at that
22 point.

1 And we are looking, as Judge Hatfield
2 noted, to the very specific statement in every
3 hearing decision where there is VE testimony for
4 this clarification or reconciliation if the
5 testimony of the VE is different than what is set
6 out in the DOT, then, that needs to be reconciled,
7 because that is one ground, unfortunately, we have
8 to send it back for when that occurs.

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

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

21 I think this goes to part of the ongoing
22 rationale and decision maker's mind, where he or she

1 may come into hearing for that day believing they
2 know exactly where they're going to put them on a
3 scale of exertional impairments. Then later they're
4 thinking about the case, some additional evidence
5 comes in, and they change their mind. They think
6 that, yeah, I did ask the right questions. And they
7 frame it that way in the decision, but when we sit
8 there and listen to the testimony in those cases, it
9 just doesn't quite mesh. So those cases, generally,
10 have to go back for clarification on that kind of
11 issue. As I mentioned too, we also do the
12 dismissals.

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

1 particular issue.

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

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

18 Okay. Here is our business process for
19 you, so you can consider this as you're working on
20 your recommendations. We receive all requests for
21 review -- currently, they're in writing. I think
22 there is movement afoot, obviously, for as much

1 automation and electronics as possible. So probably
2 in the not too distant future, we can see that done
3 electronically.

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

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

16 We also have a very able cadre of appeals
17 officers, which I haven't really mentioned in
18 detail. This group of individuals who is a little
19 more than 60 of those that currently serve. Those
20 individuals -- if a case comes out as a denial of
21 review, which is one where we're agreeing with the
22 judge, and one where they can go to court and have

1 judicial rights, the appeals officer will usually
2 take care of those actions for us. They are able to
3 sign those out by regulation.

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

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

1 line on those cases.

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

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

14 If I had one criticism of the DOT, since I
15 have been around the Agency just slightly longer
16 than Judge Hatfield has, it is that the print that I
17 used to be able to read in the hard copy edition is
18 very small. I think you should include a bigger
19 magnifying glass if you are going to issue the item
20 in hard copy. It is certainly a lot easier to use
21 electronically where you can blow it up on the
22 screen. I know, since I predate those days, I used

1 to strain my eyes even years ago looking at that
2 small print.

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

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

18 The second case example -- I was popping
19 in here -- had to do with where the VE testimony
20 didn't quite match the actual job duties; but we
21 were able to find in the DOT something that was much
22 closer and more consistent, and in fact, pay that

1 particular case based on use of the DOT.

2 And I know we do use the word a lot here
3 probably a little shorthandedly when we use obsolete
4 to modify the DOT. Certainly, it is not as up to
5 date as any of us would wish, but there are some
6 claimants out there that they do have their past
7 work and what they can do currently reflected in
8 there. For that, it does serve them well.

9 I'm sorry, go ahead, Mr. Hardy.

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

16 JUDGE HATFIELD: That is correct.

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

20 JUDGE HATFIELD: No. In some cases if
21 we're able to determine what an outcome would be,
22 either to clarify -- for example, suppose the

1 vocational expert who testified cited three job
2 numbers; but when we looked them up, they weren't
3 correct. But we could find ones right next to them.
4 Maybe it was like one digit off that were the
5 corrected citations. Then, we would issue a
6 corrective decision in that instance. It would
7 still be unfavorable to the claimant, but at least
8 when the judiciary would have the case at court,
9 they would have a corrected record on that point.

10 Now, the claimant, obviously, would be
11 given notice of this and an opportunity to comment.
12 We wouldn't be taking any kind of testimony or
13 anything at that level.

14 MR. HARDY: Thank you, sir.

15 JUDGE HATFIELD: Yes. Ms. Lechner.

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

21 JUDGE HATFIELD: When you say
22 documentation of the occupations, you mean the prior

1 work of the claimant?

2 MS. LECHNER: Yes.

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

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

20 JUDGE LOWE: It's definitely in the
21 record, because anything that's prior work,
22 certainly in the last 15 years or so, or when we're

1 looking at a case is written in the record. Whether
2 it's electronically retrievable, I just don't know;
3 but our changes should be. And you should be able
4 to see the rationale and basis for that.

5 MS. LECHNER: Thanks.

6 JUDGE LOWE: Yes, ma'am.

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

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

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

1 determinations?

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

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

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

20 Judge Hatfield, I think, mentioned one --
21 two big points were uniformity and consistency. I
22 would certainly echo that sentiment. We would love

1 to see that accuracy too. As much as we can enhance
2 on that as our goal. I don't know if that helps.

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

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

7 JUDGE LOWE: In most instances, correct;
8 yes.

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

14 So we determined that the individual
15 couldn't perform their prior work, and that
16 additional VE evidence needed to be obtained in this
17 particular case; but it is an example of the type of
18 cases where the DOT comes in handy, and looking
19 at -- anything that's -- what I would call
20 delineated in the DOT. Either we look at just to
21 make sure it's accurate, or the claimant's
22 representative or the claimant has pointed it out as

1 a question mark -- and some of them do -- and we
2 definitely want to look at it. So it's a big help
3 in ensuring as accurate a product as we can put
4 forth.

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

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

20 They say, okay, I didn't get paid on my
21 claim that is currently out there pending. My
22 condition has gotten worse. I really need to get

1 those disability payments, so I'm going to file a
2 subsequent application. Of course, they're updating
3 their medical information with the Agency back at
4 the DDS level and/or the hearing level, wherever it
5 may be.

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

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

20 There will be some cases too where we take
21 the initiative, the Agency. Usually for the same
22 very reason, someone has filed another claim. And

1 they will say well, hum, this guy is really in bad
2 shape now. Look, he had a heart condition we didn't
3 know about it; but that may have explained that
4 chest pain that never was really fully developed by
5 his doctors two years ago when we had the case.

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

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

20 I would have to say that one of them that
21 I see, at least anecdotally, is VE testimony, where
22 they want more VE testimony. Either there wasn't VE

1 testimony -- there are some jurisdictions around
2 that don't necessarily require nonexertional
3 impairments that are involved in the case to have a
4 VE come in and explain that the person can still do
5 "X" jobs with these, so it wasn't in the record.
6 And the court says, take it back anyway and take a
7 look at this.

8 Then, we get final decisions back, which
9 is the last category here where some other action is
10 necessary, where the court has sent it back here
11 saying, wow. You didn't cite X, Y, but you really
12 need to develop other issues here to see if the
13 individual is disabled for our purposes.

14 Most of the kinds of cases there, they
15 really want us to fine tune a decision and address a
16 specific issue, and send it back to them. I think
17 that brings us to the end of the conclusion by the
18 Appeals Council at least for this point. I would
19 like to thank all of you for listening to our story.
20 How we fit into this.

21 The DOT is very important. We do use it
22 in a review capacity; but as a review capacity to be

1 as much proactive as we can in terms of giving that
2 case decision ripe as early in the processes as we
3 can in the Agency, even if it's in our last
4 administrative step. So anything you can do to
5 assist us in that area is wonderfully appreciated.

6 And if you have any additional questions,
7 I am here now and ready.

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

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

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

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

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

20 Good afternoon, Rob.

21 MR. PFAFF: Good afternoon. Can everybody
22 hear me okay?

1 Today, I'm going to talk about SSA's prior
2 work to address DOT concerns. So the question is,
3 as we move forward, what are SSA's problems with the
4 DOT? And a lot of this has already been touched on
5 by some of our previous speakers. However, I'm
6 going to cover these points.

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

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

19 We also know that the DOT reflects more of
20 an industrial economy, but the U.S. economy has now
21 become more service and technology oriented. So the
22 question becomes, what has SSA done in the past?

1 What options has SSA considered with this problem,
2 and what are we going to do next.

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

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

21 We began with our first bullet up there,
22 disability redesign process. Basically, SSA

1 considered the -- what the baseline functional
2 requirements of work would be, and an attempt to
3 incorporate into the listing of impairments these
4 functional requirements for work. And one thing
5 that SSA found while exploring this possibility was
6 that really this particular process was not
7 sensitive to the nuances needed in evaluating work
8 demands and functional requirements.

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

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

21 Also, SSA has conducted a formal
22 evaluation of O*Net for use in its disability

1 programs. I'm going to touch on some of the
2 findings that SSA made with this formal evaluations.
3 But the study, in effect, identified concerns with
4 the aggregation and the ratings descriptors for work
5 and work requirements that were found in O*Net.

6 SSA has also worked with the IOTF, or the
7 Inter-organizational O*Net Task Force, which was a
8 cooperation of private and public sector users in
9 the Department of Labor. DOL shared some of their
10 experiences in completing the first version for
11 actually checking data used for the first version of
12 O*Net, and shared some of these experiences with
13 their design instruments and strategies for
14 collecting their occupational data.

15 DOL and SSA recognized the value of using
16 O*Net as a data system where possible, and where
17 gaps exist, developing additional data elements.
18 SSA and DOL maintain contact for our current
19 research efforts. I know that Sylvia and Richard
20 have conducted some outreach with Department of
21 Labor recently that let them aware of our future
22 research activities.

1 I also want to touch on what Dr. Mark
2 Wilson raised earlier. We have conducted some
3 research into incorporating functional vocational
4 expertise to assess really functional capacity.
5 This consisted of a model that was developed to
6 triage, so-to-speak, individual impairments and send
7 them to the appropriate medical and vocational
8 expert to conduct an individualized functional
9 capacity of that individual; and that, obviously, is
10 resource intensive.

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

20 It's rather exhaustive. We can do,
21 actually, a whole slide just on our past research.
22 It's pretty extensive.

1 So our previous options that we have
2 considered, let's get help from the Department of
3 Labor, obviously. The Department of Labor, which
4 created DOT has gone to -- has gone on with the
5 development of the O*Net. O*Net we have evaluated
6 and deemed as unsuitable for our disability
7 determination process. As far as updating the
8 Dictionary of Occupational Titles, obviously, as we
9 have indicated previously, the DOT was not created
10 for Social Security disability evaluation purposes.
11 It's not ideal for SSA, and also does not contain a
12 mental cognitive demand of work.

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

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

22 DR. FRASER: Robert. I just have one

1 question.

2 MR. PFAFF: Sure.

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

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

10 MR. WOODS: The only one in existence is
11 in North Carolina.

12 DR. FRASER: It still exist?

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

16 DR. FRASER: Oh, I see.

17 MR. WOODS: -- headquarters for the
18 collection of O*Net information.

19 DR. FRASER: Thank you.

20 MR. PFAFF: Okay. So why can't SSA -- I
21 guess the million dollar question -- why can't SSA
22 use O*Net for its disability programs?

1 First of all, the big problem for us is
2 aggregation, and that the aggregation is too high.
3 Again, we go back to the 12,000 DOT job titles which
4 become with O*Net 900 occupational units. To give
5 you a better example, our next slide give us at the
6 very top the O*Net description for a construction
7 carpenter, and the job description of that
8 particular occupation.

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

17 There is quite a variation as you can see,
18 and they range from SVP being what would be
19 considered to be unskilled, to an SVP of seven,
20 which would be considered skilled labor. So in
21 terms of skill level required, there is a large
22 degree of variation. And also in terms of

1 exertional requirements, there is quite a degree
2 from -- we have medium to light work indicated
3 there. Actually, we also have heavy as well, and
4 very heavy; yeah.

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

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

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

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

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

19 MR. WOODS: Question. This goes back to
20 the Commissioner's guidance yesterday. One of the
21 questions I have when we -- the box that we're
22 working in -- I think that was a good point to

1 make -- do we see it as hands off in terms of
2 looking at issues such as sedentary, light; or do we
3 feel that those are still going to be driving things
4 that have to be in the system? Or maybe that's
5 something to be answered down the road. I'm just
6 curious, because that has some significant
7 implications in terms of what we might look at down
8 the road.

9 MS. KARMAN: I think, actually, we did
10 talk about this, at least, I think, I met with a
11 couple of people on the Panel that I talked to about
12 this yesterday, because a similar question came up.

13 I think that amongst ourselves on our
14 team, as well the OISD workgroup, we're thinking
15 that, you know, the Panel really should look -- take
16 a fresh look at what kinds of physical attributes,
17 you know, our workgroup is going to be wanting to
18 recommend, as well as what kinds of things our
19 workgroup -- our Panel here will also be thinking
20 will be valuable.

21 For example, it may not be necessary
22 anymore, given that there is electronic -- we have

1 much more data space available electronically than
2 we used to. May not be a need to have things rolled
3 up to sedentary, or rolled up to light if we know
4 what the occupations require and what the
5 individual's past work entailed, then, we know what
6 those measures are. That may not be necessary.

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

18 MR. PFAFF: As a corollary, it's also -- I
19 think part of your question, I think, reveals
20 that -- how tied we are to those classifications
21 currently, not to say that we're necessarily going
22 to be going in that direction in the future. But if

1 we're looking at our current methodology and we look
2 at something like what we have with O*Net's
3 classification for low anchor, medium anchor, things
4 of that nature, we're tied into those aggregate
5 classifications to make sure assessments. So that's
6 a good point.

7 MR. WOODS: Thank you.

8 MR. PFAFF: Sure. Any other questions?

9 And that is the end of the presentation.

10 MS. TIDWELL-PETERS: Thank you, Robert.

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

16 Welcome, Debbie.

17 MS. HARKIN: Hello, everybody. A lot of
18 what I am going to go over are things, I think, have
19 already been brought up over the course of the last
20 couple of days. I am the next to the last presenter
21 you are going to hear from this meeting. I think
22 it's a good time to start summing up a little bit of

1 what we have already learned, what we know, as we
2 begin to look forward and start this process of
3 developing our Occupational Information System.

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

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

18 Before I go any further, I should add that
19 in your binder there is a paper that's entitled
20 "Overview: SSA's Legal Program and Technical Data
21 Occupational Information Requirements." I am just
22 giving you kind of the "Readers Digest" version.

1 That will give you a little more detail about what I
2 am going over.

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

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

18 And thirdly, our Occupational Information
19 System has to be legally defensible. As you heard
20 yesterday, DOT has been challenged in court and it
21 has stood up to court challenges. Our Occupational
22 Information System will be challenged and it needs

1 to also be able to stand up to this.

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

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

14 We need to do descriptors for work and
15 worker requirements that are relevant to our
16 disability evaluation process, and that are readily
17 associated with human function as shown in medical
18 evidence. Hopefully, down the line at some meetings
19 you will have the opportunity to look at the type of
20 information that we get from claimants's doctors so
21 you can see what disability examiners have to work
22 with.

1 We do get some people in who have long
2 medical histories that go see top physicians, and
3 their concerns are well documented. And then we
4 have others where the information is not so good.
5 So you will see how challenging it can be for our
6 disability examiners and our physicians to work with
7 the information that's in a file.

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

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

22 And we also need to be able to plan for

1 the future, for changes in the economy, and the
2 types of job that are out there; and we have to make
3 sure that our system has the ability to evolve with
4 time, that we can update it as it's needed.

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

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

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

22 I think one thing that we have established

1 is that our system is going to lie someplace between
2 O*Net and the DOT.

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

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

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

20 So as a Panel, you are going to have to
21 come to agreement with how you are going to use
22 terms. And this is something that we will have to

1 establish as part of our system is how we define the
2 terms that we come up with.

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

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

20 I am reminded of what the Commissioner
21 said yesterday when he was talking about how all of
22 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

1 measurable, then, we should be able to withstand
2 legal challenges.

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

13 This brings me up to just what we were
14 talking about a few minutes ago, I believe, the
15 deconstructed measures. If we use deconstructed
16 measures, it is going to be easier to associate
17 demand of work with the claimant's residual
18 functional capacity. To a disability examiner we
19 know what the term "sedentary work" means. We know
20 that it involves walking, lifting, standing. We're
21 going to want to try to avoid those in establishing
22 our Occupational Information System.

1 The DOT uses global constructs. We want
2 to try to avoid this if at all possible. The
3 simpler we make our occupational system, the better.

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

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

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

1 levels of work in the U.S. economy.

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

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

19 A few more requirements that are pretty
20 obvious. We need to develop instruments to analyze
21 occupations that will produce the same results for
22 different raters. We also must use data collection

1 methods that ensure reliable, accurate, and
2 comprehensive results; and our data must be
3 reproducible. Again, if we can make sure that all
4 this is present within our system, then it should be
5 a legally defensible occupational system.

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

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

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

21 And that is pretty much it. This is just
22 a few things for everybody to think about to help

1 get started. Any questions?

2 MS. TIDWELL-PETERS: Thank you, Debbie.

3 Thank you.

4 We're going to take a 15 minutes break.

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

6 presentation.

7 (Whereupon, a recess was taken.)

8 MS. TIDWELL-PETERS: Hello. We have had

9 an opportunity to speak with Sylvia Karman, our

10 panel member, and also the project director. She is

11 going to give us a presentation now on some of the

12 more detailed plans in how the Agency will develop

13 the occupational information.

14 Sylvia, thank you.

15 MS. KARMAN: Okay. Thank you, everyone.

16 This is the last presentation you will be

17 getting, at least for this meeting, from Social

18 Security. And I will hope to make this not painful.

19 In any case, one of the reasons that we wanted to

20 give you this overview is to help orient you all a

21 bit about the entire project.

22 First of all, the overall project will

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

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

17 In the short-term -- and you have been
18 hearing about this, and several of you have asked
19 about it -- we are looking to find out what is
20 available currently that we could use in the interim
21 while we are working on our long-term initiatives.
22 And then, of course, in the long term there is a

1 whole series of initiatives that I am going to talk
2 about.

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

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

18 So what we did do was back in the spring,
19 we issued a request for information and basically
20 queried the marketplace to find out what's out
21 there. Is it worth our going out to put a request
22 for proposal on the street? And we did get some

1 information back that indicated that it would be
2 worth our while to put a request for proposal on the
3 street, so we did. And basically, we went out for
4 two contracts.

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

21 So there are a few organizations around
22 the county that are doing that, and we selected one

1 who met the criteria of our request for proposal.
2 And then, we hired another company to do an
3 evaluation of that -- of those data and their
4 methods. Just basically, to see if those methods
5 and the data would meet our near-term requirements.
6 The near-term requirements, quite frankly, you know,
7 do they help us with our current program, our
8 current policy, and the way we currently use the
9 DOT?

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

15 Understand, we recognize that we are not
16 saying that by making those our criteria for the
17 short-term that that is absolutely the criteria we
18 want for the long-term. Just, if you are going to
19 plug something into your current program with no
20 questions asked, and no need to go out and make
21 changes to our residual functional capacity
22 assessments, and a series of other forms and

1 processes that Social Security has in place, it
2 would be good if it really, frankly, was invisible
3 to the user what was different about it. Okay. So
4 that's really all that's about.

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

18 So, for example, if the results are, you
19 know, woo, hoo, this is just fine. It meets your
20 criteria, you know, almost 100 percent or whatever;
21 then Social Security will have to figure out, okay,
22 how do we want to -- you know, how do we want to

1 navigate this? How do we want to implement? We
2 need to notify our adjudicators. Probably are going
3 to have to work with one of the offices that is part
4 of our Occupational Information Systems Development
5 Workgroup to put in, perhaps, a notice in the
6 Federal Register saying, hi, we're going to begin
7 using this updated data, shouldn't make any
8 difference, you know, in terms of outcome for
9 claims, because it's very similar, anyway.

10 Whatever.

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

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

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

20 MS. KARMAN: That is exactly correct. In
21 fact, you are prescient, because I was just about to
22 get into in a few moments why this would not be our

1 long term. That doesn't mean that there won't be
2 aspects of this -- the short-term project that may
3 not inform the long-term. I think there might very
4 well be things that might inform us. But, in fact,
5 the reason this isn't the answer is because it
6 doesn't have the mental cognitive -- basically, it's
7 the DOT. And there are other problems with the DOT
8 aside from just the fact that it doesn't include
9 mental cognitive things. Yes, sir.

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

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

19 So it would be premature for me to tell
20 you, because, I mean, we have some idea of what the
21 contractor has told us; but since that hasn't been
22 validated, you know -- the answer is, I don't know.

1 DR. FRASER: Sylvia, do they take on the
2 whole DOT?

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

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

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

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

20 MS. LECHNER: Sylvia.

21 MS. KARMAN: Yes.

22 MS. LECHNER: Does that mean that there

1 are certain variables within the DOT that this
2 company updates, it's certain they don't; or if they
3 update a job, are they updating all -- say, all of
4 the different variables --

5 MS. KARMAN: Right.

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

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

12 Because, yeah, I mean, they may not be
13 updating everything. Because maybe there isn't a
14 big call for that. It may not matter to us in the
15 long run anyway, because we don't use, for example,
16 you know, temperament. So -- but we would want to
17 know whether or not those things have been updated
18 so that we can report accurately what it is we are
19 using, because we are, in fact, you know, beholden
20 to the public. We do have to be able to explain to
21 the public what it is we are using, and how it
22 differs, if it differs.

1 So that is one of the criteria is to
2 determine what exactly has been updated, and what --
3 if there are areas in which they aren't updating
4 something like aptitudes or something, you know,
5 okay; you have to let us know.

6 MS. RUTTLEDGE: Sylvania.

7 MS. KARMAN: Yes.

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

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

22 One can also imagine that, you know, it's

1 probably going to be certain kinds of work that they
2 are going to be more likely to be updating, because
3 that's where the requests come from, so.

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

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

21 We will also be looking at the DOT, and
22 what kind of concerns we have with that. Because,

1 you know, if we are going to move forward, we need
2 to know where everything -- where all the bumps and
3 everything are; and what things are worth taking
4 forward.

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

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

1 Agency.

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

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

19 So what do we mean by integrated? I guess
20 the only reason I kind of wanted to go through this
21 is just to give you all a sense of how we expected
22 these project stages to hang together. Really,

1 we're looking at methods to develop this
2 Occupational Information System where we are using
3 more than one method, perhaps, you know. We don't
4 necessarily want to rely on just one approach, one
5 data collection plan -- one approach in data
6 collection; one approach in terms of measurement.
7 There may be different things that we need for
8 different kinds of constructs, and the types of
9 elements that we want to collect. So, you know, we
10 will certainly be discussing those as we move along.

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

1 later.

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

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

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

21 DR. WILSON: To define what relevance?

22 MS. KARMAN: Yes, absolutely.

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

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

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

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

16 One of the things that our workgroup
17 had -- was working on just about a month ago, then,
18 Debbie Harkin was pulling together some of the last
19 few comments we were getting; we did do a limited
20 survey of some of our users to get some idea of what
21 kind of elements, for want of a better word, do they
22 like that they are accustomed to seeing on an RFC or

1 an MRFC; or if we were to create new -- go out and
2 collect new data that is cognitive and mental, or
3 other data that are, you know, physical demands,
4 what kinds of things would they like.

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

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

17 So basically, okay, let's just get to
18 these project stages. I highlighted the research
19 and development one, because that's, frankly, the
20 one that we are going to be most concerned with.
21 It's good for you to know what the other pieces are.
22 We have already begun the outreach.

1 I think as -- just as an overview here,
2 one of the things that we are trying to keep in
3 front of us is that we hope to be able to use -- as
4 soon as Social Security begins to actually obtain
5 data that are usable, we really would like to be
6 able to begin doing that, even though there is some
7 policy development underway.

8 So to the extent that we can, you know,
9 have -- make use of some of the success that we
10 have, I think, we want to be able to do that as soon
11 as possible.

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

14 MS. LECHNER: Sylvia.

15 MS. KARMAN: Yes, ma'am.

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

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

22 MS. LECHNER: I didn't look.

1 MS. KARMAN: That's okay.

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

12 We have also begun the Occupational
13 Information System Development Workgroup, which is a
14 form of outreach within our Agency. And of course,
15 getting -- will enable us to get to our users across
16 the nation in a more formal manner. An ongoing way
17 of keeping all of the stakeholders involved. And of
18 course, there are others -- you know, other
19 monitoring authorities, you know, Congress, other
20 individuals who are interested in what we're doing.
21 And so part of what we're doing is getting back out
22 and talking to people.

1 What grew out of this concept of outreach
2 was, of course, this Panel. So, you know, the fact
3 that we are meeting and it's a public meeting is a
4 big feature of the outreach.

5 So does that answer your question,
6 Deborah?

7 MS. LECHNER: Yes.

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

18 As we're moving along, we are constantly
19 having sort of that barometer of, you know, well,
20 that's really a great idea, Sylvia; but you know, it
21 just won't work in Iowa. You know, like normal
22 people just can't use this.

1 So I think that's going to be something
2 that's going to be very helpful to us is to kind of
3 help us keep grounded. Also, we will make sure
4 that, you know, all of the offices that need to be
5 involved in Social Security can help move things
6 forward in a manner that's organized, you know, and
7 as efficiently as possible.

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

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

20 Then, of course, comes the Advisory Panel;
21 and you know, we have been talking a lot about the
22 work that we're going to have in front of us.

1 Tomorrow morning we're going to have a chance to
2 just really devote some time to what we're going to
3 move forward with first; and you know, how we want
4 to -- how we want to approach things.

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

9 The whole point of that road map is to
10 just give you all an opportunity to understand where
11 all the documents fit into the picture that we have
12 given you guys so far; and what kind of other things
13 we're thinking might be necessary for the future.
14 You know, how is it that we plan to work with the
15 Panel? How will the Panel be interacting with
16 Social Security? And how is it that, you know, you
17 are going to be dealing with the various issues?

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

1 content model -- "what is a content model" paper.
2 Just to orient folks, and to put some questions
3 before you as sort of a prompt, you know; what kinds
4 of thing might we want to be considering?

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

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

1 to it.

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

5 MS. KARMAN: There is a draft.

6 DR. SCHRETLEN: Is that in here?

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

18 Certainly not, you know, the full list of
19 questions, but -- so it was just a starting
20 document. And we have -- the other plan is -- the
21 plan that I refer to is we're still revising that.
22 So we are intending to share that with you all

1 shortly.

2 So basically, there are two parts to the
3 research and development, you know. What
4 information do we need? And then, how do we want to
5 go about getting it?

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

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

19 We're also wanting to do an initial
20 classification. We do have some ideas around that,
21 which we will share with you all. And you know, so
22 that might help us get moving in that area as well.

1 And then, of course, we will want to be developing
2 and testing instruments.

3 So one of the things we want to do in
4 testing the instruments, for example, something that
5 we, among our team, has been loosely calling an RFC
6 study. One of the instruments -- basically, as I am
7 understanding, it is really going to be like two
8 instruments here. One is to go out and get the
9 job -- to actually evaluate the job, right? The
10 other instrument is, well, evaluating the individual
11 or looking at their function.

12 And as I understand it, this is like one
13 coin with two sides to this coin. So if we look at,
14 perhaps, we would want to study the person side
15 instrument first. We probably would be developing
16 them both very closely together; but we probably
17 want to look at the person side first to see what
18 the effects of using some of these new elements,
19 these new constructs, or you know, might be in our
20 process. So we can see what are the effects? Are
21 the adjudicators having trouble understanding it?
22 Are the doctors having trouble understanding it?

1 You know, is this leading us into an area where we
2 may have program effects that were unintended?

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

12 Then, there are some other studies that we
13 are intending to do. I guess, for want of a better
14 word, perhaps, some elements of studies that we have
15 been talking about over the last day and a half.
16 For example, the occupational study. We really
17 think we have -- we really believe that it's
18 necessary for us to look at our claims and determine
19 what kind of past relevant work people have.
20 Perhaps, what their residual functional capacity is;
21 what kind of jobs are we citing in the situations
22 where it's a framework and it's a denial.

1 So you know, this kind of information we
2 are believing will help us in an a number of
3 different areas, not the least of which is orient us
4 and help direct us in terms of, you know, what
5 information might we want to begin collecting first?
6 You know, what kinds of occupations are of most
7 relevance to us in our -- in our process. And you
8 know, so if we look at that information at all
9 levels of adjudication, everything from the initial
10 level in the DDS all the way through the Appeals
11 Council, I think that might be very helpful.

12 Yes, Mark.

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

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

22 DR. WILSON: Right.

1 MS. KARMAN: But that's so broad that I
2 don't know if that's particularly helpful.

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

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

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

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

1 asking people for their opinion, but.

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

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

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

19 I think there are going to be other things
20 that, you know, our workgroup is going to identify;
21 and as well as -- as the Panel is discussing
22 concerns and needs -- I think there were a couple of

1 items that we have been taking down over the last
2 day and a half in terms of questions that were
3 raised by the Panel members that might suggest, you
4 know, either a separate study or, you know, a
5 question or two that we would want to add to this
6 particular study, as long as we have got the claims
7 folders open, so-to-speak. Definitely, that's
8 something we will want to be, you know, hearing from
9 you all about.

10 Let me see if I am now on the same page.
11 Okay. So then, again, part two, you know, once we
12 know what we want. Once we have the content model
13 and the instrument together. How do we go about
14 getting it? Actually, this is, again, an area where
15 we're going to really look to your assistance,
16 because even if we, for example, have an initial
17 classification system, we're going to be wanting to
18 take whatever data we get in this data collection
19 and refining that with whatever is actually going on
20 in the world of work.

21 We had several ideas about how we might
22 want to collect data in the first place. If, in

1 fact -- you know, to the extent that we are going to
2 be using, you know, on-site job analysis for,
3 perhaps, some of the elements -- some elements may
4 not lend themselves to that. For example, things
5 that are not as observable. We're going to have a
6 very difficult time. I think that's going to be an
7 area where we will be challenged in terms of how can
8 we measure those things and get the best information
9 we possibly can. And there are a number of methods
10 out there, I know, that people have been working on,
11 and that there is research for.

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

18 For example, you could actually have
19 people who are hired, trained contractors to get out
20 there and do that, do some of it. Perhaps -- I know
21 we had talked with a number of professionals --
22 vocational rehabilitation specialists and others,

1 individuals who, in the normal course of their work,
2 go out and do job analyses. Perhaps, that could be
3 a second tier, a group of individuals who are going
4 on using our protocol who have been trained, and
5 will, perhaps, be able to provide us with -- do some
6 job analyses for us.

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

17 So I'm not saying these are literally our
18 plans from soup to nuts; these are just some ideas
19 that we have generated, you know, for purposes of
20 discussion. And also to present to our executives
21 what it is that Social Security may be facing. So
22 that we had some idea of when we were talking with

1 our executives what the plans might entail, and what
2 might -- you know, the Agency might need to be
3 facing in terms of what would this look like? So in
4 any case, we do have some of that -- we have thought
5 through some of those things.

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

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

1 Security in terms of its future policy development.

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

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

17 That's basically a disability process, a
18 systems integration phase. We're going to look at,
19 you know, where -- at the point where Social
20 Security has now been gathering a great deal of
21 data, and we are also making whatever changes we did
22 in our policy, you know at what stage can we, then,

1 begin integrating this to future systems
2 developments that the Agency is currently working
3 on?

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

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

19 So are there any questions?

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

1 analyzing jobs?

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

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

21 But truly while we will continue to do
22 that, we're really looking to, you know, get sorted

1 members of the Panel who have expertise in those
2 areas to sort of step up to the plate and help us
3 with that.

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

6 MS. KARMAN: Okay.

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

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

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

1 let's say 4800.

2 MS. KARMAN: Right; whatever it is.

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

9 MS. KARMAN: Correct; right, yeah.

10 DR. FRASER: One stop shopping, you know.

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

19 Now, understanding that that is a sample
20 that would be skewed, because those are individuals
21 that -- the jobs that they're looking at are for
22 people that have been injured or whatever. There is

1 a reason why they're going out to that workplace.
2 Nonetheless, it is still data that we still could be
3 collecting, if it's not the only thing we're
4 collecting. That would be a really good way to work
5 with -- you know, another way for a vocational
6 expert -- you know, expertise to be used in our
7 process. May be more toward the front end, as
8 opposed to just at the back end. I mean, if that's
9 what you mean. I'm not sure if that's what you are
10 talking about.

11 MS. RUTTLEDGE: Sylvia. This is Lynnae
12 again.

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

21 Having been an administrator of the
22 vocational rehabilitation program that also

1 administered the Disability Determination program in
2 Oregon, I know that we have staff who have been in
3 both offices. They have worked for DDS, and they
4 have worked for VR. And I think there is people out
5 there who have used the systems that you have, and
6 will have an idea of what might make sense.

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

12 MS. KARMAN: Okay.

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

20 MS. KARMAN: Yeah. I'm glad you brought
21 that up, because I was speaking with a couple
22 members of our OISD workgroup before we came to the

1 Panel sessions. And one of the things I mentioned
2 was that I know several of you have already
3 approached us about getting to a DDS and a hearing
4 office, and just seeing what these individuals do,
5 looking at a file, you know, this sort of thing.

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

16 And also, you are quite correct, we want
17 to be working through our Office of Disability
18 Determinations, so that we can set up that kind of a
19 visit and have it be, you know, sort of a
20 formalized, you know, situation where when we show
21 up, you know, we're already having mild kind of
22 questions that we're going to ask, who we're going

1 to talk to, that kind of thing. We're definitely
2 thinking that will be really valuable.

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

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

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

14 And so I said, just tell me, what's really
15 a problem with the DOT. And she just starts
16 laughing, and she said, well, let's just use a
17 really easy example. Look at a dishwasher.
18 Dishwasher is not an occupation that's in the DOT.
19 It is a kitchen aid, which goes back to 30 years
20 ago. That's what that particular occupation was
21 called.

22 So I think just talking to DDS examiners,

1 and just having them just kind of not to do an in
2 depth -- you don't need to do everything that they
3 do. I think they have got some great stuff they can
4 show us.

5 MS. KARMAN: Okay. Any other questions?
6 Yes.

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

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

21 MS. KARMAN: Okay.

22 DR. FRASER: As I left, there was a

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

11 MS. KARMAN: Anything else? Anyone else?
12 Going once. Going twice.

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

22 By collecting examples of the different

1 kind of job analysis instruments out there, we may
2 be able to inform our content model and get some
3 ideas about what is viable to be measured, and how
4 it can be measured.

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

8 I see your red light, Debra.

9 MS. TIDWELL-PETERS: Sylvia, thank you.

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

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

1 workgroup.

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

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

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

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

1 the last two days, but really would like to hear
2 your thoughts first and your impressions.

3 DR. SCHRETLEN: Yes. Thank you, Debra.
4 I'm very happy to be a member of the Advisory Panel.
5 I haven't sort of organized my thoughts very much at
6 this point, and probably won't for a while. But in
7 general, I think it's been enormously helpful to see
8 the series of presentations. It's helped clarify
9 for me, at least, to get a -- sort of a beginners
10 understanding of what the issues are with the DOT.

11 And as I had said earlier, I think it
12 would be -- it would continue to be helpful to me to
13 hear from actual like DDS or case workers what kinds
14 of concrete problems they run into when they're
15 attempting to make this step, when they're
16 attempting to bridge the gap between the worker's
17 ability and the job demands. Where it works. You
18 know, what is working. What we don't want to get
19 rid of, because its effective, and usable, and
20 serviceable. And where the matches are. Where the
21 deficiencies are.

22 I think the only other thing is just to

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

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

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

13 DR. GIBSON: You own it.

14 DR. WILSON: Yes.

15 From a job analytic standpoint of it, kind
16 of the work side, the reason it's so important to go
17 out to the various people who use this information
18 and get a clear understanding of exactly what
19 they're doing firsthand for me is -- even though,
20 you know, it is various kind of people that I deal
21 with. I say, well, I'm not a, whatever it is
22 they're doing, and that's not my aspiration here.

1 But in order for me to make some of the kind of
2 decisions that I need to make, you really need to
3 know at a fairly in depth level what they're doing,
4 why they're doing it, things of that sort.

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

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

22 And as the Commissioner said, I think it

1 is sort of mind numbing complexity to some of this,
2 which we need to capture a number of things that are
3 used by a number of different people. So that's a
4 concern.

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

9 MS. TIDWELL-PETERS: Thank you, Mark.
10 Debra.

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

18 I was involved back in the days when we
19 were looking at the redesign and learned a
20 tremendous amount of -- about Social Security at
21 that time; and also, just working through that
22 process I saw us -- when we went out and tried to do

1 something totally different, I just saw that there
2 was a lot of time spent in kind of flailing around.

3 So -- and that's not to be critical of
4 that process. I have a lot of respect for everyone
5 that was involved in that process, but to say that,
6 you know, I think we would be better served to take
7 where we are now with the DOT as our starting point,
8 and look at our job as refining that and making it
9 better, and addressing the issues of the DDSs as
10 they struggle to do the best possible job that they
11 can do.

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

17 Not only is the Social Security
18 Administration's process closely tied to the current
19 DOT, but all in the medical community, those of us
20 who are assessing folks who have experienced
21 injuries, a lot of our processings are tied to the
22 current DOT process as well. So I think we have to

1 consider that as part of the -- part of the tiger
2 that we're trying to change to shift the direction.
3 You are not only shifting SSA, but you are shifting
4 the medical community as well. So you know, those
5 are the two things that strike me.

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

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

21 MS. KARMAN: Okay. Yeah, thank you very
22 much. Because the three of you have already helped

1 me or sort of organize my thinking around this.

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

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

14 So, you know, we don't have to just simply
15 go out and pretend like nothing else ever happened
16 and start from scratch and not know what, you
17 know -- so I think your point, Deborah, was well
18 taken -- for me anyway -- that, you know, there is
19 some things we do know. We need to take a look at
20 what are these different shortcomings; you know,
21 what sorts of things are we going to want to address
22 that is of most value to Social Security.

1 And then another aspect is that it might
2 be helpful for us -- and this is just sort of a
3 tangential comment to that -- is that it may be
4 helpful for us to imagine that while we're in the
5 initial stages of developing our recommendations and
6 deliberating, certainly -- at least maybe for the
7 content model and the classification, I am thinking
8 it may be helpful for us to be thinking that the
9 policy right now is standing still.

10 Because it's very difficult to think in
11 terms of this portion moving; the R and D, well,
12 we're developing. What if -- you are talking about
13 how we might want to make changes and what kinds of
14 things we're looking for, if we also -- you know,
15 have part of our minds about what might change over
16 here? That doesn't mean we may want to be
17 considering that something that we would develop
18 here might inform the process down the road. But
19 it's helpful for us to just think of it as
20 momentarily standing still long enough so that we
21 can have a target, I guess, in a way.

22 Hopefully, I am making some kind of sense.

1 I am getting this look. I don't know -- you are
2 next Tom, so. So I'm not sure if I am making sense.

3 In any case, I think, it's valuable to
4 take a look at what kind of shortcomings we have got
5 that we're using now, and see where that might take
6 us in terms of what things we want to recommend. So
7 thanks.

8 MS. TIDWELL-PETERS: Thank you, Sylvia.
9 Tom.

10 MR. HARDY: I guess I have two words that
11 come to mind; the first is daunting. That's out
12 there.

13 I really have to echo with what Deb said.
14 I have been involved in this before, interfaced with
15 the Department of Labor and the Administration for a
16 very long time. I have to thank everybody in the
17 workgroup. I don't know all of you, but I know some
18 of you. I have tried to talk to those of you that I
19 know. The work that has been put in to prepare for
20 this meeting is spectacular.

21 I know Deb used the word flailing. I hate
22 to use that word again, but when we first tried to

1 address some of these issues back five, ten years
2 ago, and trying to get our hands around the problem,
3 I don't know if I would say flailing, but I might
4 say flailing. We were really trying to figure out
5 what's going on.

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

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

1 I'm ready.

2 MS. TIDWELL-PETERS: Thank you, Tom.

3 Shanana.

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

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

22 I think that will be good, because while I

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

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

21 And going back to what Sylvia said, if we
22 start with the person side of the equation, that

1 naturally informs the job side as well in terms of
2 what types of data need to be collected; and
3 therefore, inform the nature of the job analysis
4 instrument.

5 So whereas, Lynnae had that idea, it seems
6 like Mark had already had it too, told no, don't go
7 out and antagonize them yet. It is just good to
8 know that we are going to have these different
9 sources or resources available to us as we move
10 forward.

11 MS. TIDWELL-PETERS: Thank you, Shanana.
12 Jim.

13 MR. WOODS: I, actually, look at it a
14 little bit differently, and suggest in some ways
15 that the delimiter that has been put on us, that
16 we're working within existing policy; actually, at
17 the level of the Panel, I believe, can make this a
18 somewhat undaunting activity. But that also won't
19 limit Social Security down the road if policy
20 changes. By that-- this is really tying into what
21 all the other members have said -- I think that will
22 really help focus what are the specific elements,

1 given the existent policy and Regulations; and as
2 Lynnae has indicated, the experience that's out
3 there with staff that we can develop a -- the data
4 elements that are in that content model as you have
5 been suggesting, Shanan; and I think that that's
6 going to be extremely doable. I think that's very
7 important.

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

16 Just going to suggest only one thing right
17 now related to that. As we go down this process
18 it's occurred to me that I think will be very
19 important not now -- this is down the road -- that
20 we keep the Department of Labor and possibly the
21 Department of Commerce -- we can discuss that -- in
22 tune with what we're doing. It does not matter if

1 we're doing something entirely different, but there
2 is going to be some significant implications,
3 possibly, in the Bureau of Labor Statistics, and
4 Employment and Training Administration dealing with
5 survey issues. None of that should limit anything
6 that we are thinking about or discussing. It is
7 going to be a very pragmatic issue. It just
8 occurred to me just to keep them informed would be
9 very useful for what will be, then, a daunting task
10 to get through that process, but a doable task.

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

20 As part of that process, and as pointed
21 out in your slides, we want, I think, to be able to
22 integrate and at least be compatible at certain

1 levels with other existent Occupational Information
2 Systems that we can benefit from. So that we can
3 look at employment estimates and occupational
4 projections if that becomes valuable to us. I very
5 much -- it may seem trivial -- I do not see this as
6 update of DOT; but a subset that is very focused.

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

18 MS. TIDWELL-PETERS: Thank you, Jim.
19 Nancy.

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

1 together.

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

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

12 You are about to ruin my stick; but it
13 certainly is -- it is almost out there as a
14 conversation stopper. Because people hear about the
15 length of time that has elapsed since the DOT was
16 last updated; and they think about changes that
17 common sense tells you have occurred in the work
18 world. But it truly is a conversation stopper,
19 because what to do about that is so daunting that
20 everybody just kind of, it's time to go for a coffee
21 break. So for that reason I am very cognizant of
22 problems with the existing structure.

1 Sylvia, I appreciated the comments you
2 made during your presentation talking about two
3 sides of the coin here. That one side, really, is
4 the -- whatever is going to be the DOT replacement,
5 what's being used by the adjudicators; but the other
6 side of the coin being the data collection. That
7 this whole engine is fueled by the information you
8 get from claimants, and information you get from
9 doctors, and what kind of forms and instruments are
10 you going to develop. Because as I thought you so
11 well stated, the two completely go together.

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

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

1 the data collection side. Thank you.

2 MS. TIDWELL-PETERS: Thank you, Nancy.
3 Bob.

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

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

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

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

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

11 And I thought one user group that was not
12 here today was some VE representatives. I think
13 kind of a little panel presentation would be at our
14 next meeting by three VE's of what they go through;
15 and what they experience; and what their challenges
16 are, is very important. Because they're going to
17 be -- hundred of thousands of cases; they're going
18 to be users of this information. They can be
19 outreached through the IARP, Internal Association of
20 VR Professionals for that kind of a presentation.
21 Just, you know, from our national database.

22 One more group that we might consider out

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

13 MS. TIDWELL-PETERS: Thank you, Bob.
14 Lynnae.

15 MS. RUTTLEDGE: Just a couple comments
16 just to echo what everyone has said, good job.
17 Debra, Elaina, and Sylvia. I am just really
18 impressed with the information that we got in all
19 the presentations; but also to clearly hear from
20 Social Security that you already have an idea of a
21 direction to go. You are not making decisions for
22 us. Why do that when you already have a Panel? But

1 you have got, I think, the framework in mind about a
2 way to move forward, which is really helpful. We
3 don't have to invent that. We now have a chance to
4 be able to help shape that. And I think that's
5 really -- that's much farther along than what I had
6 anticipated we would be.

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

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

1 in those directions.

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

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

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

22 So I leave this second day feeling

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

6 MS. TIDWELL-PETERS: That's excellent.
7 Thank you, Lynnae.

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

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

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

19 Do I hear a motion to adjourn?

20 MS. RUTTLEDGE: So moved.

21 MS. TIDWELL-PETERS: Anyone. A second?

22 MS. SHOR: Yes.

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

4 (Whereupon, at 3:42 p.m., the meeting was
5 adjourned.)

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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