

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



# Veterans Benefits Administration

*Audit of  
Compensation and Pension  
Benefit Payments to  
Incarcerated Veterans*

June 28, 2016  
13-02255-276

# ACRONYMS

BOP	Bureau of Prisons
C&P	Compensation and Pension
CMA	Computer Matching Agreement
FY	Fiscal Year
IEA	Information Exchange Agreement
OIG	Office of Inspector General
PMC	Pension Management Center
SSA	Social Security Administration
USC	United States Code
VA	Department of Veterans Affairs
VARO	Veterans Affairs Regional Office
VBA	Veterans Benefits Administration

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# Highlights: Audit of VBA's Compensation and Pension Benefit Payments to Incarcerated Veterans

## Why We Did This Audit

We conducted this audit to determine whether the Veterans Benefits Administration (VBA) was adjusting compensation and pension (C&P) benefits payments timely for veterans incarcerated in Federal, state, and local penal institutions. Federal law requires VBA to reduce C&P benefits for veterans incarcerated for more than 60 days in a Federal, state, or local penal institution.

## What We Found

VA Regional Office (VARO) and Pension Management Center (PMC) staff did not consistently take action to adjust C&P benefits for veterans incarcerated in Federal penal institutions. Specifically, based on Federal incarceration data ranging from May 2008 through June 2015, VBA did not adjust veterans' C&P benefits, as required, in an estimated 1,300 of 2,500 cases (53 percent), which resulted in improper payments totaling approximately \$59.9 million. Without improvements, we estimated VBA could make additional improper benefits payments totaling about \$41.8 million for Federal incarceration cases from fiscal year (FY) 2016 through FY 2020.

VARO and PMC staff also did not take consistent and timely action to adjust C&P benefits for veterans incarcerated in state and local penal institutions. Based on incarceration notifications received from March 2013 to August 2014—the most current data available at the time of our audit—VBA did not effectively adjust veterans' C&P benefits in an estimated 3,800 of 21,600 state and local incarceration cases (18 percent), which resulted in significant delays and improper payments totaling approximately

\$44.2 million. Without improvements, we estimated VBA could make additional improper benefits payments totaling about \$162 million for state and local incarceration cases from FY 2016 through FY 2020. In total, we estimated improper benefit payments of about \$307.9 million.

In general, VBA did not place priority on processing incarceration adjustments because VBA did not consider these non-rating claims to be part of the disability claims backlog. Both VBA Central Office staff from Compensation Service and the Office of Field Operations as well as VARO service center managers and staff consistently reported that incarceration adjustments were not a high priority.

## What We Recommended

We recommended the Acting Under Secretary for Benefits increase the priority of VBA's incarceration adjustment workload.

## Agency Comments

The Acting Under Secretary for Benefits concurred with our recommendations. Management's planned actions were responsive and we will follow up as required.

**GARY K. ABE**  
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for Audits and Evaluations

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## INTRODUCTION

<b>Objective</b>	The purpose of the audit was to determine whether the Veterans Benefits Administration (VBA) was adjusting compensation and pension (C&P) benefit payments timely for veterans incarcerated in Federal, state, and local penal institutions.
<b>Incarceration Adjustments</b>	VA disability compensation is paid to veterans with disabilities that are the result of a disease or injury incurred or aggravated during military service. VA pension is paid to low-income wartime veterans. Federal law <sup>1</sup> requires VBA to reduce C&P benefits for veterans incarcerated in a Federal, state, or local penal institution in excess of 60 days. Effective the 61 <sup>st</sup> day of incarceration, VBA must reduce compensation benefits for veterans convicted of a felony and discontinue pension benefits for veterans convicted of a felony or misdemeanor. VBA reduces compensation benefits to the 10 percent disability rate for veterans rated 20 percent service-connected or more. For veterans whose service-connected disability rating is 10 percent, VBA reduces the benefit payment by one-half. VA Regional Office (VARO) and Pension Management Center (PMC) employees are responsible for making incarceration adjustments. Once the veteran is released from the penal institution, VBA can restore C&P benefits.
<b>Non-Rating Claims</b>	Authorization end products—also known as non-rating claims—require development, review, and administrative decision or award action. VBA classifies incarceration adjustments as non-rating claims because Veterans Service Representatives can process them without a rating decision. This workload is not included as part of VBA's disability claims backlog.
<b>VBA Program Offices</b>	Compensation Service is responsible for developing policy requirements and disseminating procedures for the administration of compensation benefit programs. Pension and Fiduciary Service has jurisdiction and responsibility over the three PMCs, which are located in Philadelphia, PA; Milwaukee, WI; and St. Paul, MN. The Office of Field Operations oversees operations and establishes workload priorities at the VAROs.
<b>Other Information</b>	<ul style="list-style-type: none"><li>• Appendix A provides pertinent background information.</li><li>• Appendix B provides details on our scope and methodology.</li><li>• Appendix C provides details on our statistical sampling methodology.</li></ul>

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<sup>1</sup> Relevant Federal laws are Title 38 United States Code (USC) Section 3113, Title 38 USC Section 5313, and Title 38 USC Section 1505.

## RESULTS AND RECOMMENDATIONS

### Finding 1 VBA Needs To Improve Its Processing of Federal Incarceration Adjustments

VARO and PMC staff did not consistently take action to adjust C&P benefits for veterans incarcerated in Federal penal institutions. Specifically, based on Federal incarceration data from May 2008 through June 2015, employees did not adjust veterans' C&P benefits, as required, for an estimated 1,300 of 2,500 cases (53 percent), which resulted in improper payments totaling approximately \$59.9 million.<sup>2</sup> VBA had a computer matching agreement (CMA) with the U.S. Department of Justice, Federal Bureau of Prisons (BOP), to obtain monthly data on individuals confined in Federal penal institutions. The agreement allowed VBA to use this information to match against its records of veterans in receipt of C&P benefits to identify potential incarceration adjustments.

VBA did not receive BOP data for Federal incarcerations from July 2008 through May 2015. This occurred because VBA did not ensure a secure method of receiving electronic data from BOP. Furthermore, VBA did not effectively monitor the terms of the CMA with BOP, and VBA let the agreement expire in April 2012. VBA and BOP established a new CMA and Interconnection Security Agreement, which was finalized in April 2015.<sup>3</sup> The following month, BOP began providing VBA with data on Federal incarcerations. However, in March 2016—10 months after VBA received backup files from BOP—VBA Central Office staff told us VBA had not yet used the BOP data to make incarceration adjustments because it was still determining how to manage this workload.

VBA did not consistently process Federal incarceration adjustments primarily because VBA set its priority on eliminating the disability claims backlog. In general, VBA did not place priority on incarceration adjustments because VBA did not consider these non-rating claims part of the disability claims backlog. Both VBA Central Office staff from Compensation Service and the Office of Field Operations as well as VARO service center managers and staff consistently reported that incarceration adjustments were not a high priority. If VBA does not improve its processing of Federal incarceration adjustments and conditions remain the same, we estimated VBA could make

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<sup>2</sup> Figures, costs, and percentages have been rounded for reporting purposes. As a result, totals may not always sum due to rounding.

<sup>3</sup> The CMA went into effect in December 2014; however, the Interconnection Security Agreement was not signed until April 2015. Since both were required to resume the transfer of data, we determined the new agreements were finalized in April 2015.

additional improper payments totaling about \$41.8 million from FY 2016 through FY 2020.

**Lack of  
Federal  
Incarceration  
Adjustments**

VBA needed to improve its process of adjusting C&P benefits for veterans incarcerated in Federal penal institutions. Based on Federal incarceration data from May 2008 through June 2015, we reviewed a statistical sample of 132 Federal incarcerations for veterans who had received C&P benefits prior to their incarcerations, which included past incarcerations and incarcerations that were current at the time of our review. Based on this review, we estimated that VARO and PMC staff did not adjust veterans' C&P benefits, as required, in about 1,300 of 2,500 cases (53 percent). Specifically, VBA employees did not adjust C&P benefits in about 590 past Federal incarcerations, which resulted in improper payments totaling approximately \$8.6 million. In these cases, veterans were convicted, served time in Federal penal institutions, and had been released (as of October 1, 2015).

The following is an example of a veteran who was overpaid benefits while incarcerated in a Federal penal institution.

**Example 1**

*We determined a veteran was incarcerated in a Federal penal institution for felony charges while receiving compensation benefits at a 100 percent rate. He was sentenced to serve in a penal institution from January 2012 until he was released in October 2013. VBA did not adjust the veteran's benefits as required, and, as a result, this veteran was overpaid more than \$55,000. VBA should take action to issue a bill of collection to the veteran to recover the improper benefit payments.*

VARO and PMC staff also did not adjust C&P benefit payments in about 720 Federal incarcerations that were current at the time of our review, which resulted in improper payments totaling approximately \$51.3 million. In these cases, convicted veterans still serving their sentence in a Federal penal institution (as of October 1, 2015).

The following is an example of a veteran who was overpaid benefits while in a Federal penal institution and continues to be overpaid.

**Example 2**

*We determined a veteran was incarcerated in a Federal penal institution for felony charges while receiving compensation benefits at the 70 percent rate. He was sentenced to serve 151 months in a penal institution starting in April 2012. VBA had not adjusted the veteran's benefits, as required. As a result, this veteran had been overpaid about \$107,000 (as of October 1, 2015) with the potential of an additional overpayment of more than \$240,000 (based on the veteran's expected release date from the Federal penal institution) if*

*VBA does not take action to reduce benefit payments to the 10 percent rate, as required by Federal law.*

Prior to July 2008, VBA had a CMA with BOP to receive data on individuals admitted to Federal penal institutions. The purpose of the agreement was to identify veterans and VA beneficiaries in receipt of VA benefit payments who were confined in Federal penal institutions for more than 60 days because of a felony or a misdemeanor conviction. The agreement allowed VBA to use the BOP data to match against its records of veterans in receipt of C&P benefits to identify the need for potential incarceration adjustments. However, in July 2008, the agreement between VBA and BOP expired.

**No Federal  
Incarceration  
Data Since  
2008**

After the CMA expired, VBA did not receive data from BOP on Federal incarcerations from July 2008 through May 2015—a total of 83 months. A new CMA did not go into effect until October 2010. Prior to the effective date of the new CMA, VA's Office of Information and Technology had revised VA policy regarding VA information systems. Specifically, it required sensitive data to be encrypted when transferred. In order to comply, VBA needed to set up a secure connection with BOP. Even though the new CMA was in effect, VBA reported that it did not receive data from BOP because VBA did not fully implement a secure connection to receive electronic data until July 2012.

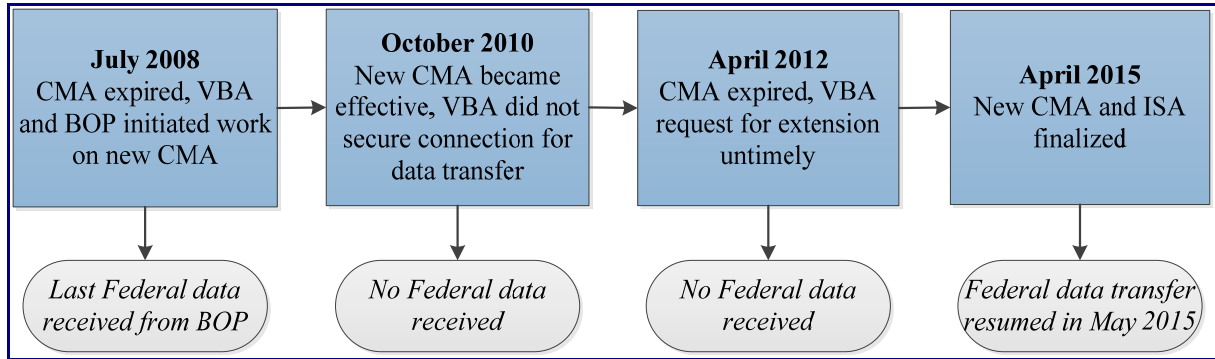
Once VBA fully implemented the secure connection, BOP still could not transfer data because VBA allowed the CMA to expire in April 2012. VBA could have extended the agreement for 1 year if VBA and BOP certified in writing that the matching program complied with the original agreement and would continue without change. However, VBA needed to complete this action within 3 months prior to the end of the agreement. VBA did not complete these necessary steps in a timely manner and the CMA expired.

In April 2015, VBA finalized a new agreement with BOP. In May 2015, BOP transferred to VBA 83 backup files with data on individuals incarcerated in Federal penal institutions from May 2008 through March 2015—almost 7 years of data not previously provided to VBA. From this point forward, BOP agreed to provide monthly data files to VBA on Federal incarcerations.



The following figure shows a timeline of CMAs and the transfer of Federal incarceration data between BOP and VBA.

**Figure. Timeline Recapping Data Transfer Between BOP and VBA**



Source: VBA Compensation Service and Federal Bureau of Prisons

**No Action Taken With BOP Data**

In December 2015, VBA Central Office staff told us VBA had not yet used the 83 backup files or the monthly data from BOP to make incarceration adjustments. Staff stated VBA was still in the process of analyzing the BOP data and determining how to manage this workload. Consequently, VBA could not provide a timeline for when VBA would make incarceration adjustments based on the BOP Federal incarceration data. VBA needed to prioritize this workload by reviewing the BOP data, taking action to make appropriate benefit adjustments, and issuing bills of collection to recover improper payments.

**Causes for Federal Incarceration Adjustment Issues**

VBA did not process Federal incarceration adjustments primarily because of how VBA set its priority on eliminating the disability claims backlog. In general, VBA did not place priority on incarceration adjustments because VBA does not consider these non-rating claims part of the disability claims backlog.<sup>4</sup> Both VBA Central Office staff from Compensation Service and the Office of Field Operations as well as VARO service center managers and staff consistently reported that incarceration adjustments were not a high priority. Several VARO employees stated that they had not worked incarceration adjustments for up to 2 years. Furthermore, VBA did not effectively monitor the terms of its agreements with BOP, which led to an almost 7-year lapse in obtaining data on Federal incarcerations.

<sup>4</sup> The disability claims backlog includes disability compensation and pension claims exceeding 125 days that require a rating decision. Non-rating claims require development, review, and administrative decision or award action; however, they generally do not require a rating decision.

**Effects of  
Federal  
Incarceration  
Adjustment  
Issues**

VBA's ineffective actions in processing Federal incarceration adjustments from May 2008 through June 2015 resulted in improper payments totaling about \$59.9 million. Based on these results, we calculated the amount of additional improper payments VBA could make over a 5-year period if conditions remained the same. We estimated VBA could make additional improper payments totaling about \$41.8 million, from FY 2016 through FY 2020.

**Conclusion**

Federal law requires VBA to adjust veterans' C&P benefits when veterans are incarcerated for more than 60 days because of a felony, and in some cases a misdemeanor conviction. VBA staff did not consistently take action to make Federal penal incarceration adjustments when appropriate. VBA needs to prioritize this workload and make improvements to ensure sound financial stewardship and minimize improper benefit payments.

**Recommendations**

1. We recommended the Acting Under Secretary for Benefits review the data on Federal incarcerations from May 2008 through June 2015 and issue bills of collection to recover improper payments made to veterans while they were incarcerated.
2. We recommended the Acting Under Secretary for Benefits review the data on Federal incarcerations from May 2008 through June 2015 and take action to make appropriate benefits adjustments and issue bills of collection to recover improper payments for veterans currently incarcerated in Federal penal institutions.
3. We recommended the Acting Under Secretary for Benefits increase the priority placed on the Federal incarceration adjustment workload by using monthly data on Federal incarcerations to make appropriate and timely compensation and pension benefits adjustments.
4. We recommended the Acting Under Secretary for Benefits monitor the terms of the current agreement with the Bureau of Prisons and take timely action to extend the agreement when appropriate.

**Management  
Comments  
and OIG  
Response**

The Acting Under Secretary for Benefits concurred with our recommendations and agreed that VBA's current process for award adjustments due to incarceration needs to be improved. The Acting Under Secretary provided action plans that were responsive to our recommendations. As of June 14, 2016, VBA had not completed their planned actions. We will monitor VBA's progress and follow up, as required, until all proposed actions are completed. The Acting Under Secretary for Benefit's full response is included in Appendix E.

## **Finding 2 VBA Needs To Prioritize State and Local Incarceration Adjustments**

VARO and PMC staff did not take consistent and timely action to adjust C&P benefits for veterans who were incarcerated in state and local penal institutions. Based on incarceration notifications received from March 2013 to August 2014,<sup>5</sup> employees did not effectively adjust veterans' C&P benefits for an estimated 3,800 of 21,600 state and local incarcerations (18 percent), which resulted in significant delays and improper benefit payments totaling approximately \$44.2 million. VBA had an Information Exchange Agreement (IEA) with the Social Security Administration (SSA) to identify veterans incarcerated in state and local penal institutions while receiving C&P benefits. VBA used these data to identify potential incarceration adjustments. We identified issues and delays with VBA employees initiating development action (taking steps to determine whether a benefit adjustment is needed) and making final incarceration adjustments after providing due process notification to veterans.

VBA did not effectively make state and local incarceration adjustments primarily because VBA set its priority on eliminating the disability claims backlog. In general, VBA did not place priority on incarceration adjustments because VBA does not consider these non-rating claims part of the disability claims backlog. Both VBA Central Office staff from Compensation Service and the Office of Field Operations as well as VARO service center managers and staff consistently reported that incarceration adjustments were not a high priority. If VBA does not improve processing of state and local incarceration adjustments and conditions remain the same, we estimated VBA could make additional improper payments totaling about \$162 million from FY 2016 through FY 2020.

**Issues  
Processing  
State and  
Local  
Incarceration  
Adjustments**

VBA needed to improve processing of C&P benefit adjustments for veterans incarcerated in state and local penal institutions to reduce improper payments. Specifically, based on SSA notifications received from March 2013 to August 2014, we reviewed a statistical sample of 331 state and local incarcerations for veterans who had received C&P benefits. Based on this review, we estimated that VARO and PMC staff did not effectively adjust veterans' C&P benefits for about 3,800 of 21,600 state and local incarcerations (18 percent), which resulted in significant delays and improper payments totaling approximately \$44.2 million.

VBA had a 5-year IEA with SSA that identified veterans incarcerated in state and local penal institutions and who were in receipt of C&P benefits. Under the agreement, data on VBA benefit recipients are matched against SSA's

<sup>5</sup> The actual date range for the notifications was March 29, 2013, through August 8, 2014, which was the most current data available at the time of our audit.

state and local data. For each match, a notification of incarceration is created. The notification includes veteran information—such as name, Social Security number, and date of birth. It also includes information on the incarceration, such as name and address of penal institution, telephone number, fax number, and date of confinement. The notification does not include information on the veteran's conviction and does not regularly include the actual date of release from the state or local penal institution. Therefore, VBA employees needed to take development action to determine whether the veteran's benefits needed adjustment.<sup>6</sup> We identified issues and delays with VBA employees initiating development action and making final C&P benefit adjustments after providing due process notification to veterans.

*Lack of  
Development  
Action*

VARO and PMC staff did not consistently initiate development action after receiving notifications of incarceration from SSA. We estimated VBA had not initiated development action for about 11,500 of 21,600 incarcerations (53 percent) at the time of our audit. In these cases, VBA received notifications from SSA; however, employees had not taken any action to determine whether benefit adjustments were needed. The average number of days pending without initiating development action for these incarcerations was about 360 days.

VBA policy<sup>7</sup> requires that employees put all claims, including incarceration adjustments, promptly under control. For incarceration adjustments, the claim is placed under control when VBA employees initiate development by taking action to determine whether the notice contains sufficient information to verify the individual's incarceration status. Should additional information be required, the employees must continue development action until it is determined whether an incarceration adjustment is necessary.

*Delays Initiating  
Development  
Action*

VBA had placed claims under control and initiated development action for about 10,200 of 21,600 incarcerations (47 percent). However, VBA did not consistently complete this action promptly upon receipt of incarceration notifications. The average number of days to initiate development for state and local incarceration notifications received from March 2013 to August 2014 was about 76 days.<sup>8</sup> Therefore, we concluded that significant delays existed.

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<sup>6</sup> In its response to this report, VBA stated it would continue to work with BOP and SSA to obtain the needed data, as part of the data matching agreements, and identify additional ways to streamline the process.

<sup>7</sup> Relevant VBA policy is M21-4 Manual, Appendix B.

<sup>8</sup> This average is for cases in which VBA had initiated development action.

Table 1 summarizes estimates for the average number of days to initiate development action for state and local incarceration notifications received from March 2013 to August 2014.

**Table 1. Time To Initiate Development Action**

Average Number of Days To Initiate Development Action	Number From Population	Percent of Population
0 to 7 Days	1,500	16%
8 to 60 Days	4,700	49%
61 to 90 Days	450	5%
91 to 180 Days	1,300	14%
More Than 180 Days	1,500	16%

Source: VA OIG analysis of statistically sampled state and local incarcerations

Note: This table includes estimates for cases in which VBA had initiated development action.

The following is an example in which we identified a significant delay in adjusting the veteran’s compensation benefits because VARO staff had not placed the claim under control or initiated development action at the time of our review.

**Example 3**

*A veteran was receiving compensation benefits at the 100 percent rate. In June 2013, the veteran was identified as being incarcerated through data provided by SSA. At that time, an electronic notification was created for the VARO of jurisdiction related to the incarceration. At the time of our audit, we determined staff did not place this claim under control or initiate development action. At our request, the VARO developed this claim and determined an adjustment was needed. In January 2015, VBA provided due process notification to the veteran, and finalized the incarceration adjustment in April 2015. Due to a processing delay of about 500 days, VBA overpaid the veteran a total of about \$27,000. After our review, VARO staff took steps, through VA’s Debt Management Center, to recover the improper benefit payments made to the veteran.*

**Delays After Due Process Notification**

We found that VBA employees delayed making final incarceration adjustments after providing due process notification to veterans. Once VBA staff complete a development action, a determination is made whether a veteran’s C&P benefits should be adjusted. For cases in which an adjustment is needed, VBA staff send a due process notification to the veteran. VBA allows the veteran 60 days to provide additional evidence showing that his or her benefits should not be adjusted. After 60 days, if

VBA has not received additional evidence from the veteran, staff should adjust the veteran's benefits as proposed—retroactively dating back to the veteran's 61<sup>st</sup> day of incarceration.

VBA staff made final incarceration adjustments in about 3,000 cases after sending due process notifications to the veterans. For these claims, it took VBA staff an average of about 110 days to make final benefit adjustments from the date of due process notification. Since VBA staff should make final benefit adjustments after the 60-day due process period expires, we concluded that significant delays existed.

The following is an example in which we identified a significant delay in adjusting the veteran's pension benefits after VBA provided due process notification to the veteran.

*Example 4*

*A veteran was receiving VA pension benefits. In April 2013, VBA identified the veteran as being incarcerated through data provided by SSA. At that time, an electronic notification was created for the PMC of jurisdiction related to the incarceration. In April 2014, more than 360 days after being notified by SSA, PMC staff initiated development action on this case. In August 2014, PMC staff sent the veteran due process notification, proposing a termination of pension benefits. VBA reported that the letter was returned undeliverable and was resent to an updated prison address in December 2014. As of March 2015, PMC staff had not taken action to suspend pension benefits even though the 60-day due process period had expired. Because of delays in this case, VBA overpaid the veteran a total of more than \$28,000. After our review, PMC staff took steps, through VA's Debt Management Center, to recover the improper benefit payments made to the veteran.*

*Overall  
Delays*

Delays in initiating development action and making final C&P benefits adjustments after due process notifications had a negative effect on overall timeliness of state and local incarceration adjustments. The longer the incarceration adjustment remains unaddressed, the larger the overpayment will be to the veteran. It took VBA an average of about 300 days to process state and local incarceration notifications received from March 2013 to August 2014.

Table 2 summarizes estimates for the total number of days to process state and local incarceration notifications received from March 2013 to August 2014.

**Table 2. Time To Process State and Local Incarceration Notifications From March 2013 to August 2014**

Total Number of Days To Process Notifications	Number From Population	Percent of Population
0 to 125 Days	4,700	23%
126 to 180 Days	2,400	12%
181 to 300 Days	3,700	17%
301 to 500 Days	6,200	29%
More Than 500 Days	4,000	19%

*Source: VA OIG analysis of statistically sampled state and local incarcerations*

Note: Figures have been rounded for reporting purposes. As a result, totals may not always sum due to rounding.

**Causes for  
Untimely State  
and Local  
Incarceration  
Adjustments**

VBA did not effectively make state and local incarceration adjustments primarily because VBA set its priority on eliminating the disability claims backlog. This priority had a negative effect on timeliness of other workload. In general, VBA did not place priority on processing state and local incarceration adjustments because VBA does not consider these non-rating claims part of the disability claims backlog. Both VBA Central Office staff from Compensation Service and the Office of Field Operations as well as VARO service center managers and staff consistently reported that incarceration adjustments were not a high priority. Several VARO employees stated that they had not worked incarceration adjustments for up to 2 years. Furthermore, VBA did not effectively monitor the timeliness of initiating development action for these claims, and did not make final benefits adjustments after due process expired.

**Effects of  
Untimely State  
and Local  
Incarceration  
Adjustments**

VBA's failure to timely process state and local incarceration data resulted in significant delays and improper payments totaling an estimated \$44.2 million. If VBA does not improve its processing of state and local incarceration adjustments, we estimated it could make additional improper payments totaling about \$162 million from FY 2016 through FY 2020.

**Conclusion**

Federal law requires VBA to adjust veterans' C&P benefits when they are incarcerated for more than 60 days due to a felony and in some cases a misdemeanor conviction. VBA staff did not take consistent and timely action to make state and local incarceration adjustments when appropriate. VBA needed to prioritize this workload and make improvements to ensure sound financial stewardship and minimize improper benefit payments.

## Recommendations

5. We recommended the Acting Under Secretary for Benefits increase the priority placed on state and local incarceration adjustment workload by initiating timely development action after receiving notifications of incarceration from the Social Security Administration.
6. We recommended the Acting Under Secretary for Benefits increase priority of state and local incarceration adjustment workload by making timely incarceration adjustments and issue bills of collection to recover improper payments, as appropriate, after providing due process notification to veterans.

*Management  
Comments and  
OIG Response*

The Acting Under Secretary for Benefits concurred with our recommendations and agreed that VBA's current process for award adjustments due to incarceration needs to be improved. The Acting Under Secretary provided action plans that were responsive to our recommendations. As of June 14, 2016, VBA had not completed their planned actions. We will monitor VBA's progress and follow up, as required, until all proposed actions are completed. The Acting Under Secretary for Benefit's full response is included in Appendix E.



## Appendix A Background

VBA Compensation Service is responsible for establishing and maintaining computer-matching agreements between VBA and other Government agencies, including those used to identify veteran incarcerations.

### **BOP Agreement**

VBA has a CMA with BOP under which VBA receives information on Federal prisoners whose VA benefits may be subject to reduction or termination. The current CMA went into effect in December 2014 for a period of 18 months, expiring in June 2016. The purpose of this agreement is to identify veterans and beneficiaries who are in receipt of VBA benefits, including C&P, and who are incarcerated for a period exceeding 60 days due to a felony or misdemeanor conviction.

### **SSA Agreement**

VBA has an IEA with SSA under which VBA receives information on state and local prisoners whose VA benefits may be subject to reduction or termination. The current IEA went into effect in May 2011 for a period of 5 years, expiring in May 2016. The purpose of this agreement is to identify those veterans and beneficiaries who are in receipt of VBA benefits, including compensation and pension, and who are incarcerated for a period exceeding 60 days due to a felony or misdemeanor conviction.

### **Prior OIG Report**

In 2007, OIG issued a report titled, *Audit of Veterans Benefits Administration Controls to Minimize Compensation Benefit Overpayments* (Report No. 06-01623-220, September 28, 2007). OIG recommended the timeliness of compensation benefit adjustments be monitored—including incarceration adjustments.

## Appendix B Scope and Methodology

### *Scope*

We conducted our audit work from August 2014 through March 2016. We suspended our audit from March through October 2015 until VBA made the Federal incarceration data available to OIG for our review. The audit focused on VBA's processes, procedures, and controls related to incarceration adjustments. Specifically, our scope included the following:

- Veterans incarcerated in Federal penal institutions from May 2008 through June 2015, as identified by BOP data provided to VBA under the new CMA.
- Veterans incarcerated in state and local penal institutions, identified by SSA notifications from March 2013 to August 2014—the most current data available at the time of our audit.

### *Methodology*

To achieve our objectives, we reviewed a statistical sample of 132 Federal incarcerations and a statistical sample of 331 state and local incarcerations. Appendix C contains details on our statistical sampling methodology.

We performed site visits at the following VAROs from October through December 2014:

- Los Angeles, CA
- St. Petersburg, FL
- Winston-Salem, NC
- Cleveland, OH
- Houston, TX
- Waco, TX
- Seattle, WA

We also visited the PMC in St. Paul, MN. During our site visits, we conducted tours to obtain an understanding of the local workflow processes. We also interviewed management and staff regarding topics related to our audit objectives.

We reviewed VBA's policies and procedures for incarceration adjustments and interviewed management and staff from VBA Central Office to discuss oversight and training.

***Fraud  
Assessment***

The audit team assessed the risk that fraud, violations of legal and regulatory requirements, and abuse could occur during this audit. The audit team exercised due diligence in staying alert to any fraud indicators by taking actions such as:

- Soliciting the OIG's Office of Investigations for indicators
- Interviewing VBA management and staff concerning potential fraudulent activities within the scope of our objectives
- Reviewing and assessing documentation in veterans' claims folders and in VBA's electronic data systems

We did not identify any instances of fraud during this audit.

***Data  
Reliability***

We relied on computer-processed data from SHARE and data provided by OIG's Austin Data Section, which obtained data related to veterans incarcerated in Federal, state, and local penal institutions from BOP and SSA. We tested the reliability of these data by comparing certain elements, such as the veteran's name and file number, to information available in VBA systems, such as Veterans Benefits Management System, Virtual VA, and the Modern Award Processing Development system. In addition, we reviewed records maintained in the Public Access to Court Electronic Records<sup>9</sup> system to verify the date of incarceration. Based on our reliability assessments, we concluded these data were appropriate and sufficient for our audit purposes.

***Government  
Standards***

Our assessment of internal controls focused on those controls relating to our audit objectives. We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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<sup>9</sup> This is an electronic public access service that allows users to obtain case and docket information online from Federal, district, and bankruptcy courts.

## Appendix C Statistical Sampling Methodology

To determine whether VBA was adjusting C&P benefit payments timely for veterans incarcerated in Federal, state, and local penal institutions, we selected a statistical sample of: (1) veterans incarcerated in Federal penal institutions, and (2) veterans incarcerated in state and local penal institutions. Figures, costs, and percentages have been rounded for reporting purposes. As a result, totals may not always sum due to rounding.

### Federal Incarcerations Review

#### **Population**

For veterans incarcerated in Federal penal institutions, we identified veterans who had received C&P benefits prior to incarceration. Our population consisted of 2,915 Federal incarceration notifications for the period from May 2008 through June 2015.

#### **Sampling Design**

For veterans incarcerated in Federal penal institutions, we used a simple random sample. We reviewed 132 incarceration cases from the population, and all records had a known chance of selection. This allowed us to make estimates over the entire population.

#### **Weights**

We calculated estimates in this report using weighted sample data. Sampling weights are computed by taking the product of the inverse of the probabilities of selection at each stage of sampling.

#### **Projections and Margins of Error**

Our review indicated VBA staff did not consistently take action to adjust C&P benefits for veterans incarcerated in Federal penal institutions. VBA did not adjust veterans' C&P benefits, as required, for about 1,300 of 2,500 cases (53 percent), which resulted in improper payments totaling approximately \$59.9 million. Specifically, VBA did not adjust C&P benefits for about 590 past Federal incarcerations, which resulted in improper payments totaling approximately \$8.6 million. VBA also did not adjust C&P benefit payments for about 720 Federal incarcerations that were current at the time of our review, which resulted in improper payments totaling approximately \$51.3 million.

The margins of error and confidence intervals are indicators of the precision of the estimates. If we repeated this audit with multiple samples, the confidence intervals would differ for each sample, but would include the true population value 90 percent of the time.

Table 3 presents estimates over the entire population, including the estimate, margin of error, lower 90 percent value, and upper 90 percent value.

**Table 3. Statistical Projections – Federal Incarcerations**  
(Dollars are in millions)

Results	Sample Results	Estimate	Margin of Error	Lower 90%	Upper 90%
Total number of Federal incarcerations in universe	113	2,458	146	2,312	2,604
Number of incarcerations for which C&P benefits were not adjusted as required	60	1,305 (53.1%)	207 (7.8%)	1,098 (45.3 %)	1,512 (60.9%)
Past Federal incarcerations (as of October 1, 2015)	27	587	168	420	755
Current Federal incarcerations (as of October 1, 2015)	33	718	180	538	898
Overpayments as a result of veterans' C&P benefits not being adjusted as required	60	\$59.9	\$23.9	\$36	\$83.7
Past Federal incarcerations (as of October 1, 2015)	27	\$8.6	\$4.8	\$3.8	\$13.3
Current Federal incarcerations (as of October 1, 2015)	33	\$51.3	\$23.8	\$27.6	\$75.1

Source: VA OIG analysis of statistical sample results projected over the sample population

VBA's ineffective actions processing Federal incarceration adjustments, from May 2008 through June 2015, resulted in improper payments totaling about \$59.9 million. Based on these results, we calculated additional improper payments VBA could make over a 5-year period based on the date range of our population. If conditions remained the same, we estimated VBA could make additional improper payments totaling about \$41.8 million from FY 2016 through FY 2020.

## State and Local Incarcerations Review

### **Population**

For veterans incarcerated in state and local penal institutions, our population consisted of SSA notifications used to identify incarcerated veterans who were in receipt of C&P benefits. Our population consisted of 21,658 state and local incarceration notifications from March 29, 2013, through August 8, 2014.

### **Sampling Design**

For veterans incarcerated in state and local penal institutions, we selected a random sample of incarceration cases based on our site visit locations. We conducted site visits at seven VAROs (Los Angeles, CA; St. Petersburg, FL; Winston-Salem, NC; Cleveland, OH; Houston, TX; Waco, TX; Seattle, WA) and one PMC (St. Paul, MN). All records had a known chance of selection per VARO and PMC. We also selected a random sample of incarceration cases from locations that were not part of our site visits and all records had a known chance of selection. This allowed us to make estimates over the entire population.

### **Weights**

We calculated estimates in this report using weighted sample data. Sampling weights are computed by taking the product of the inverse of the probabilities of selection at each stage of sampling.

### **Projections and Margins of Error**

Our review indicated VBA staff did not consistently take action to adjust C&P benefits for veterans incarcerated in state and local penal institutions. VBA did not adjust veterans' C&P benefits timely for about 3,800 of 21,600 state and local incarcerations (18 percent), which resulted in improper payments totaling approximately \$44.2 million.

The margins of error and confidence intervals are indicators of the precision of the estimates. If we repeated this audit with multiple samples, the confidence intervals would differ for each sample, but would include the true population value 90 percent of the time. Table 4 presents estimates over the entire population, including the estimate, margin of error, lower 90 percent value, and upper 90 percent value.

**Table 4. Statistical Projections – State and Local Incarcerations**  
*(Dollars are in millions)*

Results	Sample Results	Estimate	Margin of Error	Lower 90%	Upper 90%
Total number of state and local incarcerations in universe	331	21,646	38	21,608	21,684
Number of incarcerations in which C&P benefits were not adjusted timely that resulted in overpayments	42	3,839 (17.7%)	1,430 (6.6%)	2,409 (11.1%)	5,269 (24.3%)
Overpayments as a result of veterans' C&P benefits not being adjusted timely	42	\$44.2	\$21.4	\$22.8	\$65.5
Cases in which development action was not initiated	151	11,458 (52.9%)	1,695 (7.8%)	9,762 (45.1%)	13,153 (60.8%)
Average number of pending without development	151	357	38	319	395
Cases in which development action was initiated	180	10,188 (47.1%)	1,696 (7.8%)	8,492 (39.2%)	11,884 (54.9%)
0–7 days to initiate	20	1,536 (16%)	951 (9.4%)	586 (6.6%)	2,487 (25.4%)
8–60 days to initiate	85	4,743 (49.4%)	1,385 (11.5%)	3,357 (38%)	6,128 (60.9%)
61–90 days to initiate	13	450 (4.7%)	238 (2.6%)	212 (2.1%)	689 (7.3%)
91–180 days to initiate	28	1,344 (14%)	658 (6.8%)	686 (7.2%)	2,002 (20.8%)

Table 4.  
Statistical  
Projections  
(cont'd)

Results	Sample Results	Estimate	Margin of Error	Lower 90%	Upper 90%
181+ days to initiate	24	1,524 (15.9%)	839 (8.4%)	685 (7.5%)	2,363 (24.3%)
Average number of days to initiate development	180	76	23	53	100
Cases in which final incarceration adjustment was made after due process notification	40	2,992	1,145	1,846	4,137
Average number of days to process state and local incarceration notifications	321	296	30	267	326
0–125 days to process	105	4,737 (22.6%)	1,229 (5.9%)	3,508 (16.7%)	5,967 (28.4%)
126–180 days to process	33	2,419 (11.5%)	1,111 (5.3%)	1,308 (6.2%)	3,530 (16.8%)
181–300 days to process	61	3,658 (17.4%)	1,241 (5.9%)	2,417 (11.5%)	4,899 (23.3%)
301–500 days to process	72	6,169 (29.4%)	1,632 (7.7%)	4,537 (21.7%)	7,800 (37.1%)
501+ days to process	50	4,008 (19.1%)	1,430 (6.8%)	2,577 (12.3%)	5,438 (25.9%)

Source: VA OIG analysis of statistical sample results projected over the sample population

VBA's ineffective actions processing state and local incarceration adjustments resulted in significant delays and improper payments totaling about \$44.2 million. Based on these results, we calculated additional improper payments VBA could make over a 5-year period based on the date range of our population. If conditions remained the same, we estimated VBA could make additional improper payments totaling about \$162 million from FY 2016 through FY 2020.



**Appendix D Potential Monetary Benefits in Accordance With  
Inspector General Act Amendments**

<b>Recommendation</b>	<b>Explanation of Benefits</b>	<b>Better Use of Funds</b>	<b>Questioned Costs</b>
1-2	Improper payments based on Federal incarcerations from May 2008 through June 2015 (as of October 1, 2015)	\$0	\$59,900,000
3	Potential improper payments based on Federal incarcerations from FY 2016 through FY 2020	\$0	\$41,800,000
5-6	Improper payments based on state and local incarceration notifications from March 2013 to August 2014	\$0	\$44,200,000
5-6	Potential improper payments based on state and local incarceration notifications from FY 2016 through FY 2020	\$0	\$162,000,000
<b>Total</b>		<b>\$0</b>	<b>\$307,900,000</b>

## Appendix E Management Comments

### Department of Veterans Affairs

### Memorandum

**Date:** April 18, 2016  
**From:** Acting Under Secretary for Benefits (20)  
**Subj:** OIG Draft Report—Audit of Compensation and Pension Benefit Payments to Incarcerated Veterans—VAIQ 7683359  
**To:** Assistant Inspector General for Audits and Evaluations (52)

1. Attached is VBA's response to the OIG draft report: Audit of Compensation and Pension Benefit Payments to Incarcerated Veterans.
2. Questions may be referred to Catherine Milano, Senior Program Analyst, at 461-9216.

*(original signed by:)*

DANNY G.I. PUMMILL

Attachment

**Veterans Benefits Administration (VBA)  
Comments on OIG Draft Report  
Audit of Compensation and Pension Benefit Payments to Incarcerated Veterans**

**The Veterans Benefits Administration provides the following comments:**

VA has a statutory responsibility to reduce or terminate disability compensation or pension benefits for VA beneficiaries incarcerated in a Federal, State, or local penal institution in excess of 60 days. VBA conducts an electronic data match of all disability compensation and pension benefit recipients with the Department of Justice, Federal Bureau of Prisons (FBOP), and the Social Security Administration (SSA) to identify those individuals confined in penal institutions.

VBA agrees with the OIG that the current process for award adjustments due to incarceration needs to be improved. VBA is required to make the adjustments effective on the date of the beneficiary's conviction; however, the electronic data currently received from FBOP does not include this information. Therefore, after verifying that the match results correctly correspond to the identified beneficiary, VBA personnel must perform additional, time-consuming research to determine the date of conviction (e.g., contacting the beneficiary or prison in writing and/or by phone). VBA is working with FBOP to determine the changes needed to obtain conviction dates as part of the data-matching agreement. This will allow VBA to more timely and efficiently make the adjustments and will also support future automation of the process. VBA will continue to work with FBOP and SSA to obtain the needed data and identify additional ways to streamline the process.

Incarceration adjustments are part of VBA's non-rating workload. As VBA continues to receive and complete record numbers of disability rating claims, the result is a corresponding increase in the volume of non-rating claims. In fiscal year (FY) 2015, VBA completed a record 3.1 million non-rating claims, a 15-percent increase over FY 2014.

**The following comments are submitted in response to the recommendations in the OIG draft report:**

Recommendation 1: We recommended the Acting Under Secretary for Benefits review the data on Federal incarcerations from May 2008 through June 2015 and issue bills of collection to recover improper payments made to veterans while they were incarcerated.

VBA Response: Concur. VBA received the data on Federal incarcerations from May 2008 through June 2015 and has identified approximately 3,400 cases that need to be reviewed for potential award adjustment. VBA will take action to complete all necessary award adjustments on these cases.

Target Completion Date: December 31, 2016

Recommendation 2: We recommended the Acting Under Secretary for Benefits review the data on Federal incarcerations from May 2008 through June 2015 and take action to make appropriate benefit adjustments and issue bills of collection to recover improper payments for veterans currently incarcerated in Federal penal institutions.

VBA Response: Concur. VBA received the data on Federal incarcerations from May 2008 through June 2015 and has identified approximately 3,400 cases that need to be reviewed for potential award adjustment. VBA will take action to complete all necessary award adjustments on these cases.

Target Completion Date: December 31, 2016

Recommendation 3: We recommended the Acting Under Secretary for Benefits increase the priority placed on Federal incarceration adjustment workload by using monthly data on Federal incarcerations to make appropriate and timely compensation and pension benefit adjustments.

VBA Response: Concur. VBA agrees that processing incarceration adjustments is important and will prioritize these adjustments based on the date of incarceration, working the oldest dates first. VBA will also continue to work to balance available resources in order to increase its focus on processing incarceration adjustments. By May 31, 2016, VBA will communicate additional guidance to regional offices (ROs) on the prioritization of Federal, State, and local incarceration adjustments.

Target Completion Date: May 31, 2016

Recommendation 4: We recommended the Acting Under Secretary for Benefits monitor the terms of the current agreement with the Bureau of Prisons and take timely action to extend the agreement when appropriate.

VBA Response: Concur. VBA initiated the renewal of this agreement in the first quarter of FY 2016 and expects it to be completed by June 30, 2016.

Target Completion Date: June 30, 2016

Recommendation 5: We recommended the Acting Under Secretary for Benefits increase the priority placed on State and local incarceration adjustment workload by initiating timely development action after receiving notifications of incarceration from the Social Security Administration.

VBA Response: Concur. VBA agrees that processing incarceration adjustments is important and will prioritize these adjustments based on the date of incarceration, working the oldest dates first. VBA will also continue to work to balance available resources in order to increase its focus on processing incarceration adjustments. By May 31, 2016, VBA will communicate additional guidance to ROs on the prioritization of Federal, State, and local incarceration adjustments.

Target Completion Date: May 31, 2016

Recommendation 6: We recommended the Acting Under Secretary for Benefits increase priority of State and local incarceration adjustment workload by making timely incarceration adjustments and issue bills of collection to recover improper payments, as appropriate, after providing due process notification to veterans.

VBA Response: Concur. VBA agrees that processing incarceration adjustments is important and will prioritize these adjustments based on the date of incarceration, working the oldest dates first. VBA will also continue to work to balance available resources in order to increase its focus on processing incarceration adjustments. By May 31, 2016, VBA will communicate additional guidance to ROs on the prioritization of Federal, State, and local incarceration adjustments.

Target Completion Date: May 31, 2016

## Appendix F **OIG Contact and Staff Acknowledgments**

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Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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Acknowledgments	Nick Dahl, Director Stephen Bracci Michael Cannata John Cintolo Ron Comtois Michael Derick Lee Giesbrecht Karen Myers David Orfalea Victor Rhee Joseph Vivolo Ann Wolf
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## **Appendix G Report Distribution**

### **VA Distribution**

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