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BY THE COMPTROLLER GENERAL  
**Report To The Honorable William Proxmire  
United States Senate**

OF THE UNITED STATES

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**Legislation Plus Aggressive Action  
Needed To Strengthen VA's  
Debt Collection**

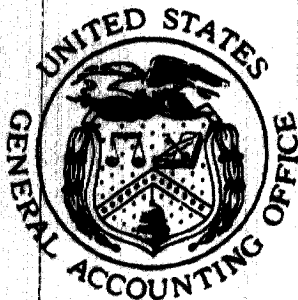
The Veterans Administration has had serious problems collecting educational assistance overpayments and other debts from veterans. The amount of educational assistance overpayments on which VA terminated collection action grew from about \$10 million as of June 1975 to \$198 million as of June 1980. Most veterans with delinquent overpayment accounts appear to be able to repay these debts.

Several problems which have hampered VA's collection efforts may be corrected by VA, but others will require legislative action. The most significant factor which limited the effectiveness of VA's collection efforts was that veterans could ignore repayment demands with little or no fear of adverse actions which would normally result from failure to pay private-sector debts. Recently enacted legislation will help solve this problem by permitting VA to use certain private-sector debt collection techniques.

GAO recommends that the Administrator of Veterans Affairs and the Congress take additional action to strengthen VA's debt collection efforts and that VA resume collection action on debts previously considered uncollectable.



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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-197331

The Honorable William Proxmire  
United States Senate

Dear Senator Proxmire:

Pursuant to your request as Chairman, Subcommittee on Housing and Urban Development-Independent Agencies, Senate Committee on Appropriations, we have reviewed the feasibility of resuming collection action, using generally accepted private-sector debt collection practices, on educational assistance overpayment accounts written off by the Veterans Administration. This report (1) points out that many of these accounts have collection potential, (2) describes some of the major problems that have hampered debt collection efforts within the agency, (3) discusses the recent enactment of Public Law 96-466 which addresses some of these problems, and (4) makes additional recommendations to the agency and the Congress to further strengthen the agency's debt collection efforts.

As arranged with your office, we plan no further distribution of this report until 10 days after the report date. At that time, we will send copies to the Chairmen of the House and Senate Committees on Veterans' Affairs, the House and Senate Committees on the Judiciary, the House Committee on Post Office and Civil Service, and the Senate Committee on Governmental Affairs; and the Administrator of Veterans Affairs. We also will send copies to other interested parties and make copies available upon request.

Sincerely yours,

A handwritten signature in black ink, reading "Thomas R. Staebgen", is written over the typed name.

Comptroller General  
of the United States



COMPTROLLER GENERAL'S  
REPORT TO THE HONORABLE  
WILLIAM PROXMIRE  
UNITED STATES SENATE

LEGISLATION PLUS AGGRESSIVE  
ACTION NEEDED TO STRENGTHEN  
VA'S DEBT COLLECTION

D I G E S T

Over the last 5 years, the Veterans Administration (VA) has terminated collection efforts on increasing amounts of educational assistance overpayments to veterans because it has not had the "clout" that private-sector creditors have had to encourage veterans to repay amounts owed. GAO found that many veterans whose overpayment accounts have been terminated appear to be able to pay their debts. (See ch. 1.)

As of June 1980, VA had terminated as uncollectable almost 700,000 educational assistance overpayment accounts totaling \$198 million. This was a significant increase in uncollectable accounts since 1975 when about 113,000 accounts totaling about \$10 million were considered uncollectable. (See p. 4.)

Senator William Proxmire requested, as Chairman of the Subcommittee on Housing and Urban Development-Independent Agencies, Senate Committee on Appropriations, that GAO (1) study the feasibility of resuming collection action on educational assistance overpayments written off by VA, using generally accepted private-sector debt collection practices, and (2) give special consideration to reporting delinquent and terminated accounts to commercial credit bureaus as a means of motivating veterans to repay their debts to the Government.

GAO obtained a random sample of commercial credit reports on veterans whose accounts had been terminated as uncollectable and found that most of the veterans were employed, had an established history of paying their private-sector creditors, and had

private-sector lines of credit equal to or greater than the amounts owed to VA. (See pp. 10 and 11.)

Several factors have hampered VA's debt collection efforts and contributed to the large volume of educational assistance overpayment accounts terminated in recent years. GAO believes the most significant problem is that veterans have been able to ignore VA's demands for repayment with little or no fear of the adverse actions which would normally result from failure to pay debts owed to private-sector creditors. (See p. 17.)

To help resolve this problem, GAO staff worked closely with the House and Senate Veterans' Affairs Committees and VA on various legislative proposals which would permit VA to adopt certain private-sector debt collection practices. On several occasions, GAO testified before these Committees on the results of its review and the need for legislation to (1) clearly authorize VA to report delinquent and terminated accounts to commercial credit bureaus, (2) give VA attorneys authority to litigate debt collection cases, and (3) require VA to charge interest and recover administrative collection costs on debts not repaid in a timely manner. These recommendations were later incorporated into Public Law 96-466, dated October 17, 1980. Effective implementation of this legislation will greatly enhance VA's debt collection capability. (See ch. 3.)

Most of the other problems which have hampered VA's debt collection efforts may be corrected immediately through administrative action. However, additional legislative action by the Congress is needed to correct two problem areas which not only hamper the debt collection efforts of VA but also other Federal agencies. (See p. 42.)

RECOMMENDATIONS TO THE ADMINISTRATOR  
OF VETERANS AFFAIRS

The Administrator of Veterans Affairs should:

- Resume collection action on terminated educational assistance overpayment accounts using the collection methods discussed in this report. (See p. 43.)
- Implement immediately the debt collection provisions of Public Law 96-466 which (1) permit VA to report delinquent and terminated accounts to commercial credit bureaus, (2) give VA attorneys the authority to litigate debt collection cases, and (3) require VA to charge interest and recover administrative collection costs on debts owed to VA. (See p. 43.)
- To the maximum extent practicable, require payment in full rather than repayment plans for debts disclosed when matching guaranteed home loan applications with educational assistance overpayments. (See p. 43.)
- Require commercial lenders to give VA veteran identification information on applicants for automatically guaranteed home loans so VA can check for indebtedness before the loans are closed. If indebtedness exists, the lender should be notified to withhold closing until the veteran pays the debt. (See p. 43.)
- When possible, obtain debtor ability-to-pay information in a more economical manner, such as from commercial credit bureau reports. (See p. 43.)
- On a test basis, independently verify the accuracy of investigative credit report information. (See p. 43.)
- Combine terminated and current overpayments of individual debtors so the full debt amount is pursued. (See p. 43.)

- Instruct VA regional offices to deduct outstanding overpayments from special benefit payments. (See p. 44.)
- Implement a program to periodically match delinquent and terminated educational assistance overpayment accounts with computer listings of current Federal civilian and military personnel. (See p. 44.)

#### RECOMMENDATIONS TO THE CONGRESS

The Congress should:

- Monitor VA's collection activities to ensure prompt and effective implementation of the debt collection provisions of Public Law 96-466. Prompt implementation is particularly important because many of VA's older terminated accounts are nearing the 6-year statutory limitation for filing court suits, and because of the statutory limitation on credit bureaus disclosing information over 7 years old. (See p. 44.)
- Enact legislation to amend 5 U.S.C. 5514(a) to permit involuntary collection of general Government debts from the current salary of Federal employees. Presently, 5 U.S.C. 5514(a) has been interpreted as being applicable only to debts incident to the employment or services of such employees rather than including other types of debts, such as delinquent and terminated VA educational assistance overpayments or defaulted student loans. GAO anticipates that involuntary collections through offset would occur after other administrative collection actions have been exhausted and the employees' rights to due process have been met. Involuntary collection would eliminate the untenable situation of a Federal employee receiving a salary while refusing to repay a general Government debt. (See p. 44.)
- Enact legislation to specify that the 6-year statute of limitations contained in 28 U.S.C. 2415 applies only to court



action by the Government, and that it does not include administrative collection actions by Federal agencies, such as offsetting uncollectable debts owed by Federal employees against their final salary payments or retirement benefits. This legislation is needed to resolve the impasse between GAO and the Department of Justice on the issue. (See p. 44.)

#### AGENCY COMMENTS

On October 3 and 6, 1980, respectively, GAO sent copies of its draft report to VA and Justice for comment pursuant to Public Law 96-226. The agencies neither submitted comments within the statutory 30-day time limit nor requested an extension. The comments received from VA and Justice after the statutory comment period had expired are included as appendixes III and IV without GAO analysis. (See p. 45.)

10/2/2019

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ABBREVIATIONS

CARS	Centralized Accounts Receivable Section
DOD	Department of Defense
DPC	data processing center
FECA	Federal Employees' Compensation Act
GAO	General Accounting Office
GSL	guaranteed student loan
HEW <u>1</u> /	Department of Health, Education, and Welfare
IRS	Internal Revenue Service
OPM	Office of Personnel Management
USPS	U.S. Postal Service
VA	Veterans Administration

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1/Effective May 4, 1980, HEW was reorganized into two separate departments, the Department of Education and the Department of Health and Human Services (HHS).

## CHAPTER 1

### INTRODUCTION

Senator William Proxmire requested, as Chairman of the Subcommittee on Housing and Urban Development-Independent Agencies, Senate Committee on Appropriations, that we study the feasibility of resuming collection action on educational assistance overpayments written off as uncollectable by the Veterans Administration (VA), using generally accepted private-sector debt collection practices, and that we give special consideration to reporting delinquent and terminated accounts to commercial credit bureaus as a means of motivating veterans to repay their debts to the Government. In his request, Senator Proxmire stated that he was appalled by the dollar volume of accounts being written off by VA. He said that debts owed the Federal Government should be treated with the same degree of respect and dignity as private-sector debts and that persons who defaulted on their Government obligations should be reported to credit bureaus on the same basis and under the same conditions as if they had defaulted on private-sector debts.

Three significant occurrences affected our response to Senator Proxmire. First, we issued a report 1/ on the effectiveness of debt collection activities of the Federal Government. In this report, we concluded that overall debt collection in the Federal Government is a slow, expensive process and has significant potential for improvement. Furthermore, by adopting certain private-sector practices, such as reporting debts to credit bureaus, the Federal Government could better collect its debts and recover billions of dollars. Private-sector credit industry officials have said that the single most powerful motivation for individuals to pay their debts was the stigma of having their credit ratings reflect that debts are not paid on time.

Second, the Federal Claims Collection Standards were revised on April 17, 1979. These standards for Federal agencies are issued jointly by our office and the Department of Justice under 31 U.S.C. 952. The issues raised in the previously

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1/"The Government Can Be More Productive In Collecting Its Debts By Following Commercial Practices" (FGMSD-78-59, Feb. 23, 1979).

mentioned report were the impetus for revision of the standards which now require Federal agencies to "\* \* \* develop and implement procedures for reporting delinquent debts to commercial credit bureaus." Because of this revision, we focused our work on reviewing VA's collection methods, the collection potential of accounts on which VA had stopped collection action, and assisting VA and the House and Senate Veterans' Affairs Committees in developing legislative proposals to strengthen VA debt collection efforts.

Third, after we submitted a draft of this report to VA and Justice for their review and comments, the Congress passed, and the President signed, the Veterans' Rehabilitation and Education Amendments of 1980 (Public Law 96-466, Oct. 17, 1980) which included provisions adopting three of our proposed recommendations to the Congress. These recommendations which we had previously suggested to the House and Senate Veterans' Affairs Committees in various hearings during our review included (1) amending 38 U.S.C. 3301 to clearly authorize VA to report delinquent and terminated accounts to commercial credit bureaus; (2) giving VA attorneys authority to file suit, in any court of competent jurisdiction, to recover any indebtedness owed the United States by virtue of an individual's participation in VA benefit programs; and (3) requiring VA to charge interest and recover administrative collection costs on accounts not repaid within a reasonable time period. We have updated this report to include these recent legislative changes.

#### EDUCATIONAL ASSISTANCE OVERPAYMENT ACCOUNTS--A MAJOR PROBLEM

The overpayment of educational assistance benefits has grown significantly since fiscal year 1972. For example, overpayments identified by VA during fiscal year 1972 totaled \$50.8 million; however, during fiscal year 1979, the amount identified was almost seven times greater at \$350.3 million.

Much of this increase can be attributed to more benefits paid; however, the following table shows a gradual increase in overpayments identified as a percent of benefits paid through September 1976. Percentage decreases occurred in fiscal years 1977 and 1978, but fiscal year 1979 brought another percentage increase in overpayments identified. While the absolute dollar value of overpayments identified decreased in fiscal years 1978 and 1979, the percentages indicate overpayments are a continuing problem.

Overpayments as a Percent of Benefits Paid

<u>Fiscal year</u>	Benefits paid (note a)	Over- payments identified	<u>Percent</u>
(millions)			
1967	\$ 305	\$ 2.0	0.7
1968	467	7.9	1.7
1969	689	16.3	2.4
1970	1,033	17.9	1.7
1971	1,657	33.0	2.0
1972	1,960	50.8	2.6
1973	2,726	142.4	5.2
1974	3,252	269.0	8.3
1975	4,498	446.3	9.9
1976	5,510	883.4	16.0
Transition quarter (July - Sept.)	731	183.1	25.0
1977	3,864	602.4	15.6
1978	3,309	394.8	11.9
1979	2,750	350.3	12.7

a/Benefits data taken from VA published information on gross expenditures and include benefits paid under 38 U.S.C. chapters 31, 34, and 35.

The payment of education benefits is administered through the Department of Veterans Benefits at VA's central office in Washington, D.C., which is supported by 58 regional offices. The VA Data Processing Center (DPC) at Hines, Illinois, maintains a computerized master record file for each veteran, serviceperson, and dependent who has received or is receiving educational assistance benefits.

Eligible veterans and Armed Forces active-duty personnel are entitled to educational assistance benefits under 38 U.S.C. chapter 34. During our fieldwork, an eligible veteran without dependents and attending college full time was entitled to \$311 a month. The benefits are intended for costs of tuition, books, subsistence, and other expenses. Eligible veterans and dependents can also receive education benefits under 38 U.S.C. chapters 31, 32, and 35; however, most education benefits paid and overpayments have occurred under 38 U.S.C. chapter 34.

The overpayment of education benefits usually occurs when a veteran discontinues or reduces educational course work and is paid at a benefit rate higher than the rate entitled. If the veteran applies for and receives future educational benefits, the overpayment account in most instances will be offset against these benefits. When this cannot be done, VA is obligated under the Federal Claims Collection Act to collect such overpayments. Also, 38 U.S.C. 1780(e) provides that educational assistance overpayments are monetary claims owed the United States and are to be treated as other debts owed the Federal Government.

We reviewed and reported 1/ on the VA overpayment problem in 1976 and 1978. Our reports recommended that VA take various actions to help alleviate the overpayment problem. Although several of the recommended actions have been taken by VA as we reported in 1978, millions of taxpayers' dollars in the form of VA overpayments remain uncollected.

#### COLLECTION OF OVERPAYMENTS

The collection of educational assistance overpayments and other debts from veterans is a significant problem which has plagued VA for at least the past 5 years. The cumulative amount of educational assistance overpayment accounts terminated by VA because of inability to collect has grown from about 113,000 accounts totaling about \$10 million as of June 1975 to almost 700,000 accounts totaling \$198 million as of June 1980. For the same period, education accounts VA was still trying to collect increased from \$218 million to \$413 million.

Responsibility for collecting educational assistance overpayments rests with the VA Centralized Accounts Receivable Section (CARS) in St. Paul, Minnesota. The CARS system is linked directly to the Hines DPC. Once the master record shows that the veteran has an overpayment, but is no longer receiving education benefits against which it may be offset, the overpayment is transmitted to CARS for collection. The VA collection process relies primarily on three computer-generated

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1/"Educational Assistance Overpayments, A Billion Dollar Problem--A Look At The Causes, Solutions, And Collection Efforts" (MWD-76-109, Mar. 19, 1976) and "Further Actions Needed To Resolve VA's Educational Assistance Overpayment Problem" (HRD-78-45, Feb. 17, 1978).



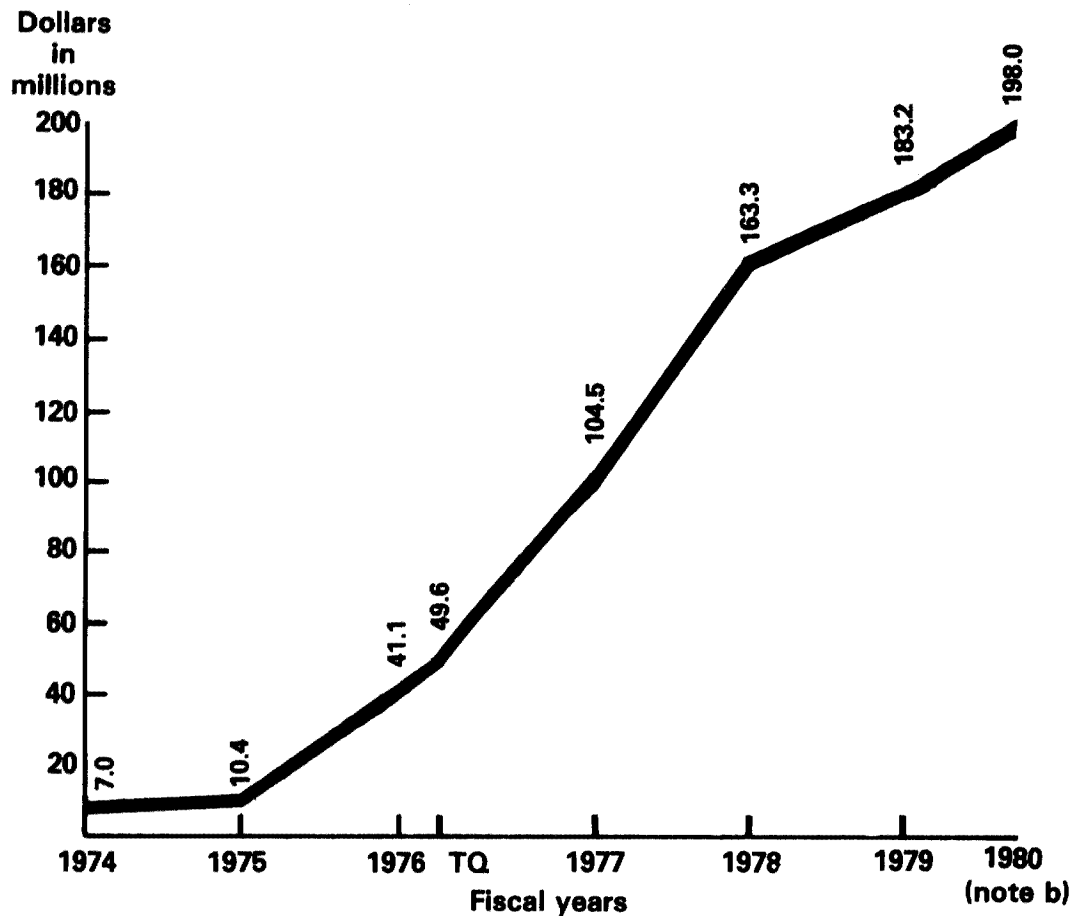
collection letters sent to the debtor. The first letter is sent from Hines DPC and the other letters from CARS.

Each collection letter is somewhat different, but taken together they advise debtors they have the right to request a waiver and that VA will consider reasonable repayment plans or a compromise offer in settlement of the debt. The letters are sent at 30-day intervals unless there is some type of response from the debtor. (See app. I for copies of these letters.) For undeliverable collection letters, VA may request a current address from the Internal Revenue Service (IRS) or the U.S. Postal Service (USPS). If a new address is obtained, the collection letters are sent again.

At the time of our fieldwork, VA accounts of \$600 or more were referred to Justice for further collection action if the debtor had sufficient assets and/or income that demonstrated an ability to repay the debt. However, pursuant to Public Law 96-466, VA and Justice signed a memorandum of understanding on October 21, 1980, giving VA authority to file suit and conduct litigation on accounts of \$1,200 or less. Accounts greater than \$1,200 will continue to be referred to Justice. (Before March 1978 accounts were referred to GAO first instead of Justice for further collection action.) To obtain asset and income information needed to refer accounts to Justice, VA contracts with a commercial firm to provide investigative credit reports. These reports are prepared by individuals who attempt to gather information on debtors' income, place of employment, and assets.

When accounts cannot be referred to Justice or the debtor cannot be located, VA can terminate active collection action under the Federal Claims Collection Standards. The following graph shows the buildup in the value of terminated accounts.

**DOLLAR AMOUNT OF EDUCATIONAL OVERPAYMENTS  
IN TERMINATED STATUS (NOTE A)**



a/ Terminated education overpayments in the graph consist only of benefits paid under 38 U.S.C. chapter 34.

b/ As of June 30, 1980.

From June 30, 1974, to June 30, 1980, the dollar amount of terminated accounts increased 28-fold. Under the debt collection practices in effect at the time of our fieldwork, these accounts would most likely remain uncollected unless offset against future benefits.

Most accounts collected are through offsetting further education benefits. To determine CARS' collection rate, 350 accounts are randomly selected by VA each month and their disposition recorded. This sampling procedure began in September 1977 and is taken from all accounts established

which includes loan guaranty, compensation and pension, and all education benefit accounts. From sampling accounts from September 1977 through August 1978, CARS has determined its average account collection rate was 65 percent with an average dollar value of 58 percent. Only 13 percent of the dollar value of CARS accounts was collected in cash, but VA reported a cash benefit cost ratio of 8 to 1 for its collection operations in fiscal year 1979. It should be noted that the dollar value of accounts VA wrote off exceeded the cash it collected for the above sampling period.

#### REVIEW SCOPE AND METHODOLOGY

To obtain information on VA's collection procedures, four random samples totaling 1,200 terminated education overpayment accounts paid under 38 U.S.C. chapter 34 were selected from a universe of 580,752 accounts valued at over \$166 million as of November 1978. Two requirements for each of the four samples were that the debtor's address had to correspond geographically to the service area of a major credit bureau and that the overpayment discovery date had to be after January 1, 1975, when CARS became fully operational.

One sample of 500 accounts was drawn from a sample universe of 43,369 accounts over \$200 from California; the value of the sample universe was over \$19 million. A second sample of 500 accounts was drawn from a sample universe of 20,833 accounts over \$200 from New York, New Jersey, and Massachusetts; the value of this sample universe was over \$10 million.

Because so few of the 1,000 sample accounts exceeded the minimum \$600 criteria for referral to Justice for litigation, we later selected two additional random samples of 100 each from accounts over \$600 from the same geographical areas. The sample universe for California totaled 3,973 accounts valued at about \$4 million. The sample universe for the three east coast States totaled 2,647 accounts valued at about \$3.2 million.

The results of our samples may be projected to the universe from which each sample was selected, but not to the universe of all accounts. To facilitate readability of this report, however, we chose to treat the two samples of 500 accounts over \$200 as a single sample of 1,000, and the two samples of 100 accounts over \$600 as a single sample of 200, since the weighted percentages for California and the three

eastern States generally did not vary more than a few percentage points. Also, a high degree of statistical precision was not considered necessary to support the issues discussed in this report.

The accounts were obtained from master files maintained at the Hines DPC and information on VA's collection efforts was obtained from CARS and the VA Regional Office and Insurance Center, St. Paul, Minnesota.

To obtain commercial credit information for veterans with education overpayment accounts, we contracted with a major commercial credit bureau to furnish commercial credit reports. Information on delinquent overpayment accounts was not reported to the credit bureau. The credit reports received were analyzed to determine the veteran's ability to repay VA overpayments. Credit reports for some veterans were not available at the credit bureau. Because there are several major credit bureaus, a veteran may have had a report on file with a firm other than the one we used or may not have any credit records on file with a credit bureau.

We interviewed officials of USPS; the Departments of Labor, Defense (DOD), Health, Education, and Welfare (HEW), and Justice; and VA. These interviews concerned the general subject of debt collection in the Federal Government and/or specific VA debt collection efforts. We also reviewed and analyzed appropriate source documents or records at these agencies, and we reviewed laws, regulations, and policies relating to Federal debt collection.

To obtain information on VA's collection of education overpayments from Federal employees, a judgment sample of Federal employee accounts was selected and analyzed. Judgment samples of accounts were also drawn to obtain information on investigative credit reports obtained by VA and collection of Labor overpayments from Federal employees.

We testified on the results of our review on July 31, 1979, before the Subcommittee on Education, Training and Employment, House Committee on Veterans' Affairs, and on August 2, 1979, before the Senate Committee on Veterans' Affairs. The subject of these hearings was legislation amending 38 U.S.C. 3301 to release certain veteran information maintained by VA to commercial credit bureaus for debt collection purposes.

On November 8, 1979, we testified before the Subcommittee on Special Investigations, House Committee on Veterans' Affairs. The Subcommittee hearing addressed proposed legislation to give VA authority to litigate overpayment cases when collection efforts have failed. We also testified before this Subcommittee on April 1, 1980, regarding VA's charging interest on debts and other debt collection matters.

## CHAPTER 2

### TERMINATED EDUCATION OVERPAYMENT

#### ACCOUNTS HAVE COLLECTION POTENTIAL

Many veterans with terminated educational assistance overpayment accounts have the ability to repay the money they owe VA. The commercial credit bureau reports we obtained for several samples of veterans with terminated accounts showed that most were employed and had a history of paying their private-sector creditors. Our analysis of CARS records disclosed that VA had stopped collection on most of these accounts because the veterans apparently chose to ignore VA's demands for payment, and the amount of each debt was below the dollar limit for referral to our office or Justice for further collection action.

#### VETERANS CAN PAY THEIR OVERPAYMENT ACCOUNTS

We requested credit reports from a major credit bureau for 1,200 randomly sampled terminated education overpayment accounts owed by veterans. Credit bureau reports contain information provided by creditors about individuals. The reports reflect dollar lines of credit, delinquent accounts, and accounts on which collection action has been taken. Also, they often show place of employment and most recent address. Credit bureau reports do not contain an overall "credit rating." Instead, credit decisions are made by individual user organizations based on how they evaluate credit data. (See app. II for an example of a credit bureau report.)

Although more than 2,000 credit bureaus are located in the United States, the industry is dominated by five major companies. These five companies, made up of owned or affiliated local bureaus, cover about 75 percent of the Nation. Complete national coverage would require involvement of smaller independent bureaus, most of which are loosely affiliated through membership in a trade association and/or a national marketing association.

For the 1,200 sampled accounts, credit reports were available from the commercial credit bureau for 915, or 76 percent (other veterans included in the sample may have had a credit report at a bureau other than the one we used). Our review of the credit reports showed that:

- 56 percent of the veterans had what we considered good credit reports.
- 57 percent had been extended private-sector credit which exceeded the amount of their outstanding debts to VA. A creditor had, therefore, determined that these veterans had the ability to repay an amount at least equal to their overpayment accounts.
- 81 percent were employed, including 6 percent with the Federal Government. Two of the debtors were VA employees.

Also, we obtained different addresses from the credit reports, for 32 percent of the cases VA had terminated because it could not locate the debtor.

Some specific examples of veterans with good credit reports, but who owed a debt to the Government for which collection efforts had been terminated follow:

- In one case VA had stopped collection efforts on an overpayment of about \$1,208 in July 1977 because the VA investigative credit report indicated the veteran was unemployed. However, the commercial credit bureau report we obtained in January 1979 showed that the veteran was employed and had been extended credit of \$1,300 for purchasing household goods.
- A veteran's overpayment account of \$1,190 was terminated in December 1977 because he had insufficient income for referral to our office. However, the credit bureau report showed that he was employed and had obtained an unsecured bank loan for \$1,100 in August 1978.
- Another overpayment account of \$685 was terminated in June 1978 because the veteran was unemployed. His credit bureau report showed he had satisfactorily paid two auto loans--one for \$6,400 and another for \$1,600. In December 1978, a major bank reported the veteran had a credit card with a \$700 line of credit.
- A veteran's overpayment of \$578 was terminated by VA in August 1977. An investigative credit report obtained by VA showed the veteran was a USPS employee with an

estimated income of \$17,000 and his spouse had an estimated income of \$7,000. The account was terminated because the veteran ignored VA's demand for payment and the amount of the debt was under the \$600 limit for referral to our office and Justice. The credit bureau report showed the veteran had obtained an auto loan for \$4,600 about 1 month before VA terminated his account.

--Another veteran's account of \$276 was terminated in October 1978 because the veteran ignored VA's demand for payment and the amount was too small to be referred to Justice. The credit bureau report shows that earlier in 1978 he secured an auto loan for \$8,700. The report also indicates the veteran is a Federal employee.

--A final example is a veteran whose overpayment account of \$639 was terminated in July 1977, but his commercial credit bureau report shows two real estate loans for \$67,000 and \$170,000 in 1977 and 1978, respectively. This veteran's debt appears to have been terminated because of inability to pay since VA's investigative credit report showed earned income of only \$400 a month.

These examples illustrate that many veterans with overpayments also have good credit reports. We believe these veterans have the ability to repay their overpayments and collection action should be resumed. The methods VA should use to collect these debts are addressed in chapter 3. Collection actions by VA have often failed in securing collection as we found for our sampled accounts.

#### WHY VA STOPS COLLECTION ACTION

In testimony before the Congress, VA officials have stated that a main reason they are unable to collect overpayments is that debtors cannot be located. However, the information we collected in our sample of terminated accounts did not support this assertion. Based on CARS source documents, 83 percent of our sample accounts were terminated because the veterans apparently chose to ignore VA's demands for payment and the amounts were too small to be referred to our office or Justice.

VA and other Federal agencies can terminate collection activity under provisions in the Federal Claims Collection



Standards, 4 C.F.R. 104.3 (1980). VA terminates collection activity primarily under the provision of inability to collect any substantial amount. This provision states:

"\* \* \* Collection action may be terminated on a claim when it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor having due regard for the judicial remedies available to the Government, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law. In determining the debtor's inability to pay the following factors, among others, may be considered: Age and health of the debtor; present and potential income; inheritance prospects; the possibility that assets have been concealed or improperly transferred by the debtor; the availability of assets or income which may be realized upon by enforced collection proceedings."

VA generally uses this provision to terminate accounts which remain uncollected after it has sent out its three computer-generated demand letters, and the dollar balances are below the limit for referral to Justice.

The provisions for terminating an account also state:

"\* \* \* Collection action may be terminated on a claim when the debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset notwithstanding the bar of the statute of limitations is too remote to justify retention of the claim."

This provision is generally used by VA to terminate an account when the veteran cannot be located and when a new address is not obtained from USPS or IRS.

CARS collection action stops  
after three letters are sent

The Federal Claims Collection Standards require that agencies take aggressive administrative collection action and that at least three written demands for payment normally

be made before collection action is stopped. Under VA's collection system three letters are sent, and if an account remains uncollected, it is terminated or considered for referral to Justice.

Our 1,200 sampled accounts were selected in two increments. One sample included 1,000 accounts and the other 200. From the sample of 1,000 accounts we found that:

- 83 percent were terminated because VA determined it was unable to collect any substantial amount (i.e., the debt remained uncollected after VA had sent out its three demand letters), and the debts could not be referred to our office or Justice.

- 9 percent were terminated because VA determined the debtor was unable to pay.

- 7 percent were terminated because VA could not locate the debtor.

We could not determine why the other 1 percent were terminated.

An example of a typical overpayment account terminated because it could not be referred to our office or Justice is a veteran's \$412 overpayment account discovered in March 1976. Three letters were sent to the veteran, the third in June 1976. No payments were received and the account was terminated in July 1976.

For our sample of 1,000 accounts, the following collection actions were taken:

- 95 percent were sent three collection letters.

- 2 percent were sent only the first or second letter.

- 9 percent of the accounts had some locator action taken.

- 14 percent had investigative credit reports ordered.

The average time from discovery to termination of the debt was 12 months, and CARS received partial payment on 20 percent of the accounts. Most of the accounts in our sample were sent the three standard VA collection letters and then terminated.

The VA system is designed so that, once an account has been terminated, further collection action is not resumed even if the debtor later sends a partial payment to VA. For example, one veteran paid \$25 in February 1976, reducing his terminated overpayment to \$285. No further VA collection action was taken on the account. A VA official told us that payments on terminated accounts are "conscience payments" not worth pursuing.

A similar situation occurs when a veteran is sent three letters and then denied a waiver or compromise offer. For example, in one case a veteran was sent the third collection letter in July 1976, a waiver was requested and later denied in August 1976, and the \$378 account was terminated in February 1977 with no further collection action taken.

For our second sample of 200 accounts over \$600, the reasons for termination were as follows:

- 79 percent were terminated because VA determined the debtor was unable to pay (or information on ability to pay was not obtained) and, therefore, they could not be referred to us or Justice.

- 19 percent were terminated because the debtor could not be located.

We could not determine why the remaining 2 percent of the accounts were terminated.

An example of an overpayment terminated because of inability to pay was a \$701 debt terminated in December 1977. Three collection letters were sent to the veteran with no response, and then an investigative credit report was ordered by VA. The report showed the veteran was a mechanic, but was currently unemployed and had not worked steadily in the past. When employed, his income was estimated at \$10,000. Based on this information the account was terminated. For an account terminated because the debtor could not be located, an example is a \$793 account terminated in August 1977. One collection letter was sent to the veteran's California address but was returned. CARS ordered and received an IRS address, but the address was the same one CARS had used and the account was terminated without any further effort to locate the veteran.

CARS' collection actions on accounts were generally a one-time occurrence. For example, if VA found that a veteran was unemployed, the account was terminated. No routine attempt was made to follow up on the account after a specified time to determine whether the veteran secured employment. This was also true for accounts terminated because of inability to locate. Accounts terminated because veterans could not be located were not checked for new addresses against tax returns filed with IRS each year. Finally, once VA's three collection letters were sent to debtors with accounts under \$600, no further collection letters were sent unless some response was received from the debtor. We believe this single occurrence approach to debt collection gave debtors the impression VA had given up trying to collect the debt.

Veterans can avoid paying by  
not giving VA information

When VA could not determine whether the debtor could pay accounts of \$600 or larger, they were terminated because they could not be referred to Justice without this information. Debtors, relatives, and neighbors who refused to give information about veterans to VA or an investigative credit report company has impeded the debt collection process and ultimately the veterans' accounts were terminated. For example, in an attempt to collect a \$696 overpayment, a VA field examiner made three visits to a veteran's home without finding the veteran. Messages were left to contact VA, and the neighbors and postmaster claimed the veteran lived at the address visited. Because the veteran did not respond to VA's inquiries, the account was terminated.

Another example is a veteran with a \$642 overpayment. The veteran's mother told a representative of an investigative reporting company the veteran no longer lived there and would not disclose any information about the veteran other than her residence was his mailing address. Neighbors also refused to provide any information, and the account was terminated.

A final example is a veteran with a \$1,132 overpayment terminated in February 1978 because information on the veteran's ability to pay was not obtained. A representative of an investigative reporting company went to the veteran's address, but did not find the veteran at home. Neighbors confirmed the veteran lived at the address but was seldom seen. A VA field examiner also made several attempts to contact the veteran without success, and the account was terminated.

### CHAPTER 3

#### IMMEDIATE ACTION NEEDED TO IMPROVE

##### VA'S DEBT COLLECTION EFFORTS

Several factors have hampered VA's debt collection efforts and contributed to the large volume of educational assistance overpayment accounts terminated by VA in recent years. Some of these problems may be corrected by VA through more aggressive administrative collection action. Others require congressional action to remove certain legal impediments to effective debt collections. We believe that the recent enactment of Public Law 96-466 offers the greatest potential for strengthening VA's debt collection efforts. This legislation authorizes VA to adopt certain private-sector debt collection methods discussed in this chapter.

We believe corrective action should be taken immediately on these matters particularly in implementing the debt collection provisions of Public Law 96-466, because of statutory time limitations on using certain collection methods, and generally, the older debts become, the more difficult they are to collect.

##### REPORT DELINQUENT AND TERMINATED DEBTS TO COMMERCIAL CREDIT BUREAUS

The most significant factor which has limited VA's effectiveness in debt collection is that veterans have been able to ignore VA's demands for repayment with little or no fear of reprisal or any of the adverse actions which would normally result from not paying debts they owe to private-sector creditors. As discussed in chapter 2, over 80 percent of our sample accounts were terminated because the veterans chose to ignore or were otherwise uncooperative or unresponsive to VA's demands for payment, and the dollar amounts were under the limit for referral to our office or Justice.

Reporting delinquent and bad debts to commercial credit bureaus is used effectively in the private-sector credit industry to motivate debtors to pay their financial obligations, and we believe VA should use this method in collecting educational assistance overpayments. Reporting delinquent and terminated overpayment accounts to credit bureaus would alert potential creditors that veterans have not repaid and might result in creditors denying or restricting credit based on

this information. According to industry and credit bureau officials, the vast majority of Americans rely on credit and, when faced with the possible loss of credit, will pay their bills.

Federal agencies are now directed by the Federal Claims Collection Standards to report delinquent debts to commercial credit bureaus. However, several legal issues were raised by VA regarding implementation of this requirement.

The first issue was that VA believed a provision in 38 U.S.C. 3301 prevented disclosure of debtors' names and addresses to credit bureaus. Subsequent to completion of our fieldwork and testimony before the House and Senate Veterans' Affairs Committees, this statute was amended by Public Law 96-466 to allow release of the information. Now that this restriction has been eliminated, VA should begin using credit bureaus as soon as possible because a provision of the Fair Credit Reporting Act (15 U.S.C. 1681c) prevents credit bureaus from making reports containing information more than 7 years old on accounts placed for collection. When we started our review, there were over \$29.7 million in terminated education overpayments which would be 7 years old or older by 1981. Also, the older debts become, the harder they are to collect because debtors move or more often question the validity of the debt.

A second legal issue raised by VA was whether certain provisions of the Privacy Act of 1974 (5 U.S.C. 552a) applied to agreements for reporting debts to commercial credit bureaus. These provisions set forth rights of individuals regarding access to their files and standards for maintaining records. The provisions would, in effect, place additional requirements on credit bureaus if they were subject to the Privacy Act. A credit bureau industry representative has testified before the Congress that credit bureaus are adequately regulated by the Fair Credit Reporting Act and would not do business with VA or any other Federal agency if subjected to the Privacy Act. Justice believes the Privacy Act provisions in question would be applicable to agreements between Government agencies and credit bureaus. Although we did not agree with Justice, we supported an amendment to 38 U.S.C. 3301 to specifically exempt VA's use of credit bureaus from the provisions in question. While the enactment of Public Law 96-466 has since resolved the matter for VA, the issue remains unresolved

for other Federal agencies which may raise the issue of applicability of the Privacy Act before reporting debts to commercial credit bureaus.

A third issue raised by VA is whether specific administrative collection actions are subject to the 6-year statute of limitations in 28 U.S.C. 2415. In September 1978, a memorandum opinion from an assistant attorney general to the Chairman of the Civil Service Commission (now the Office of Personnel Management (OPM)) held that the 6-year statute of limitations prevents the Federal Government from collecting debts more than 6 years old by means of offset. In May 1979, we issued a decision in direct disagreement with the memorandum opinion, but in November 1979, Justice wrote our office endorsing its original position. Because of Justice's opinion OPM has stopped collecting time-barred debts through offset against the retirement benefits of Federal employees.

In April 1980, VA wrote us seeking clarification of the issue before proceeding on collection of terminated accounts. VA was concerned about the possible effect of 28 U.S.C. 2415 on reporting delinquent debts to credit bureaus and other administrative debt collection activities. In an August 6, 1980, letter, we informed VA of our view that the 6-year limitation applied only to the right to bring suit. Consequently, any other efforts to collect those debts were unaffected by this limitation. Although Public Law 96-466 has since exempted VA from any time limitation on offsetting benefits, the problem remains unresolved for other Federal agencies.

VA ATTORNEYS NEED AUTHORITY  
TO LITIGATE ACCOUNTS WHICH  
CANNOT BE REFERRED TO JUSTICE

Collection through litigation or legal action could not be used on most terminated accounts in our sample because they were under the dollar limit for referral to Justice. Veterans could and did ignore VA's collection actions if their accounts were under \$600 with no threat of legal action.

Veterans are exploiting the  
procedure for debt referral

During our review, we noticed payments were made on some accounts reducing the amount to below the dollar limit for referral and then payments stopped. A CARS official told us

that his contacts with veterans revealed that some knew the dollar limit for referral to our office and Justice. One veteran told him that all he had to do was wait and VA would terminate his account. The official also stated that some veteran organizations on campuses publicize the dollar limit and in at least one case the VA campus representative told a veteran what the dollar limit was.

Some examples of accounts reduced below the dollar limit for referral and then terminated follow.

--In 1977, a veteran with an overpayment of \$567 received three letters from VA. The third demand letter stated his account would be referred to GAO if payment was not received. At this time the dollar limit for referral was \$500. The veteran then made a \$100 payment. Later, the account was terminated without any further collection action by VA.

--Another veteran had an overpayment of \$540 in mid-1976. Two cash payments of \$25 were received, reducing the debt to \$490, or \$10 below the referral limit of \$500. The debt was terminated in September 1977 after three collection letters were sent.

--A third veteran had an overpayment of \$813 in 1975. Three payments totaling \$300 were received, reducing the debt to \$513. Later, in September 1977 the account was terminated when the limit for referral was \$600.

We believe these examples illustrate that veterans know the dollar limit or, based on VA's collection actions, they learned collection action stopped after the third demand letter if a debt was reduced below a certain dollar amount.

#### VA begins litigation test

Because of the high number of terminated overpayment accounts under \$600, Justice agreed to delegate authority to VA to litigate overpayments under \$600 on a test basis. For fiscal year 1980, the Congress authorized \$742,000 and 30 staff positions for VA to conduct the litigation test at 10 VA regional offices.

As of April 1980, the litigation test had gotten off to a slow start regarding collections. Only 5 of the 10 test



stations were participating in the test. Since collection actions began in October 1979, \$42,281 had been collected as of April 1980, or an average of \$1,409 per month for each of the five test stations. The total cash collection represents about 15 percent of the value of potentially recoverable accounts on which VA attempted collection.

According to VA officials, one factor which contributed to this slow start was the difficulty encountered by VA in formulating an effective working relationship with Justice concerning litigation in Federal district courts. Justice agreed to delegate litigation authority to VA in March 1979, but a final agreement was not consummated until November 1979. Under the delegation, VA district counsels had to set up working relationships with local U.S. attorneys. During a February 1980 visit to the Los Angeles VA district counsel's office, we learned that agreements with the local U.S. attorney on filing VA suits in Federal district court still had not been reached.

In addition to working relationships with Justice, intra-VA relationships had to be established. The VA assistant district counsel in San Francisco told us that formulating working agreements with the regional office finance and adjudication divisions was a time-consuming process.

Another reason the test proceeded slowly was VA's inability to provide additional overpayment cases to its district counsel offices in a timely manner. At the start of VA's test, we provided VA information on about 800 terminated education overpayment accounts used during our review totaling about \$328,000. These accounts were allocated for collection to 5 of the 10 litigation test stations. To provide district counsel offices more accounts, VA later concentrated its efforts on establishing an account referral system from CARS. This system did not become operational until May 1980, at which time VA began referring delinquent accounts, not yet terminated, to district counsels in the 10 test stations. Because the development of this system took a long time, the other five test stations did not begin the litigation test until May or June, when about two-thirds of fiscal year 1980 had passed. Also, the referral system will not be used for over \$186 million in terminated accounts which were cited in the Senate Appropriations Committee report 1/ as justification

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1/S. Rep. No. 258, 96th Cong., 1st Sess. (1979).

for the litigation test. VA officials told us that they were reluctant to resume collection action on the terminated accounts because of the workload this would place on CARS, and because they felt that litigation of more recent accounts not yet terminated would produce more positive test results. While VA's arguments may have some merit, they do not address the Committee Chairman's concern over the large volume of terminated accounts which have collection potential.

Despite the slow start, we continue to support the concept of debt litigation by agency attorneys and believe that authorizing VA attorneys to litigate debt collection cases will be cost effective. In hearings before the House Veterans' Affairs Committee in November 1979 and April 1980, we expressed the view that VA should have the same collection tools, including litigation, as private-sector creditors and that litigation or the threat of litigation was necessary to compel some veterans to repay educational assistance overpayments under \$600. We also testified that making VA totally responsible and accountable for its debt collection, including litigation, should result in more timely recovery action, intensified prelitigation collection efforts, and better quality control in preparing cases for litigation. It might also motivate VA to strengthen program management to help prevent overpayments and reduce loan defaults. In addition, it will help relieve Justice of its rapidly increasing backlog of debt litigation cases.

Although the litigation test was still in progress as of October 1980, the Congress included a provision in Public Law 96-466 which gives VA attorneys the authority to bring suit in any court of competent jurisdiction to recover any indebtedness owed the United States by a person by virtue of participation in a benefit program administered by VA.

CHARGE INTEREST AND RECOVER  
ADMINISTRATIVE COLLECTION  
COSTS ON OVERPAYMENT ACCOUNTS

At the time of our fieldwork, VA did not charge interest on delinquent and terminated educational assistance overpayment accounts. Given the present state of the Nation's economy, particularly the high inflation rate, tight money, and interest rates being charged for consumer-type credit, VA's failure to charge interest on such accounts gave veterans a financial incentive to not repay their debts to VA. For

example, without adequate interest charges the real cost to the veteran of eventual repayment decreases in any period of inflation. Also, given the choice of using available funds to pay existing debts--one interest bearing (e.g., consumer credit) and one not (e.g., VA overpayment)--the financially attractive choice is obvious. Moreover, we believe VA should charge interest on delinquent overpayments because veterans have interest-free use of funds to which they are not entitled at the same time the Federal Government is borrowing funds for operations. We also believe VA should be reimbursed for costs associated with the collection of delinquent overpayments. Debtors who fail to repay their overpayments within a specified time period after notification of the debt should be assessed a charge to cover these costs. VA estimated its administrative collection costs were \$6.4 million in fiscal year 1979.

We testified before the House Veterans' Affairs Committee in April 1980 that VA's failure to charge interest on a balance of \$600 million of educational assistance overpayments would cost the American taxpayers an estimated \$90 million a year in unrecovered interest based upon the then prevailing market rate of about 15 percent on 1-year U.S. Treasury bills. Administrative costs associated with VA's debt collection efforts are not included in this figure. In our testimony, we expressed the view that VA should charge interest and a factor to cover administrative collection costs on delinquent overpayments. Charging interest would help remove the present financial disincentive for debtors to pay their debts to VA. The Government would receive some compensation not only for outstanding debts but also for costs associated with collecting delinquent overpayment accounts.

The Federal Claims Collection Standards, as revised, require that, in the absence of a different rule prescribed by statute, contract, or regulation, interest should be charged on delinquent debts and debts being paid in installments in conformity with the Treasury Fiscal Requirements Manual. The Treasury manual provides for charging interest at a rate equivalent to 9 percent per year on amounts owed the Government which are not covered by contracts, agreements, or other payment arrangements.

In a January 1980 letter to the Comptroller General, VA questioned whether interest could legally be assessed on debts resulting from overpayment of entitlement-type benefits since they did not involve a contractual obligation.

The Comptroller General's March 31, 1980, decision concluded that the distinction between contractual debts and those arising from overpayments of noncontractual benefits was not relevant in determining whether interest should be charged on debts due the Government. Thus, unless a statute or other rule states otherwise, VA has authority to charge interest on the equitable theory that creditors are entitled to compensation for detention of their money without regard to the manner in which the obligation arose.

As of September 1980, VA was unable to provide a target date as to when it would begin charging interest. In a letter to our office VA stated that charging interest "\* \* \*" will have a profound impact on existing resources, both in terms of personnel and existing automatic data processing equipment." Specifically, VA cited the development of its Target System, the automation of benefit payments under 38 U.S.C. chapter 32, and Office of Management and Budget reporting requirements as reasons for not implementing procedures for charging interest.

To erase VA's doubt about its authority to charge interest, the Congress included a provision in Public Law 96-466 which requires that VA charge interest and recover administrative collection costs on overpayment accounts not repaid within a reasonable time period.

#### IMPROVE WITHHOLDING OF VA MORTGAGE GUARANTY BENEFIT

The Federal Claims Collection Standards state that agencies seeking the collection of statutory penalties, forfeitures, or debts will, as an enforcement aid or for compelling compliance, give serious consideration to the suspension or revocation of licenses or other privileges for any inexcusable, prolonged, or repeated failure of a debtor to pay such claim.

At the start of our audit, VA was neither withholding nor planning to withhold the benefit of a mortgage guarantee to veterans indebted to VA. We discussed this strategy with VA officials, who initially questioned their authority to withhold the guarantee. They also stated that some VA officials believe compassion for veterans must be shown, and they might be criticized for withholding the VA guarantee on mortgages.

We conducted a limited test matching veterans having terminated accounts with applicants for VA guaranteed loans in VA's Los Angeles region. Our test yielded 575 matches, or about 3 percent of the possible matches. The loan application dates for all 575 matches were between January 1, 1977, and January 31, 1979. An analysis of these matches showed:

- Of the 575 accounts matched, 425 contained financial data which showed the average price paid for a home was \$52,300.
- 542 (94 percent) of the veterans applied for a guaranteed loan about 2 years, on the average, after their educational assistance overpayment account was created.
- Of these 542 veterans, 436 received a VA guaranteed loan. These 436 veterans had overpayments totaling \$134,600. Therefore, VA would have had a good chance to collect the overpayments if this benefit had been withheld subject to payment of the debt.

The pattern revealed from our match is that a veteran will attend school, incur an overpayment, not repay it, and later request and obtain VA's assistance in securing a home mortgage. Three examples from our match follow:

- In one case the veteran owed VA \$892 which was discovered in April 1977. VA attempted to obtain information on this veteran through an investigative credit report and inquiries by local VA officials. The veteran did not respond to any of VA's contacts, and his wife would not give VA any information. The account was later terminated in June 1978 because income information could not be obtained for referral to Justice. The veteran applied for a VA guaranteed mortgage about 2 months later and VA committed itself to guaranteeing the loan (however, the veteran later withdrew his application). A credit bureau report we obtained revealed the veteran obtained an auto loan for \$9,700 in February 1979.
- A veteran's educational assistance overpayment account of \$546 was terminated in January 1976. About 2 years later he purchased a \$64,500 home with the help of a VA guaranteed mortgage. His commercial credit bureau

report showed favorable credit entries, and he was employed with IRS.

--In the third example, a veteran's \$1,360 overpayment account was terminated by VA in January 1978 for inability to pay. He applied for a guaranteed mortgage 9 months later and obtained a loan on a \$64,500 home. A report from the credit bureau revealed the veteran had a credit card from a major bank with a \$700 line of credit.

These examples show that debtors obtaining VA guaranteed mortgages have the ability to repay their overpayments. They have eluded the VA collection process and then obtained the highly valued benefit of a VA guaranteed mortgage.

#### VA begins matching program

In April 1979, VA instructed its regional offices to begin checking guaranteed mortgage loan applicants for educational assistance overpayment accounts and defaulted education loans. VA tells applicants with delinquent debts that their home loan application or purchase offer will not be approved until the debt is paid in full or VA receives an acceptable repayment plan. However, if veterans state that they are returning to school they can obtain a guaranteed loan without paying.

For some loan applications commercial lenders can automatically commit VA to guaranteeing a mortgage without prior VA approval. For these applications VA has directed lenders to ask the veteran if they have any education indebtedness. When the veteran replies indebtedness exists, the lender is instructed not to automatically close the loan unless the veteran presents evidence that the debt is cleared or a current repayment plan exists. As the following discussion illustrates, both the provisions for checking by automatic lenders and allowing repayment plans need revision.

#### Repayment plans should be eliminated

Once an indebted veteran agrees to a repayment plan and obtains a VA mortgage guarantee, VA no longer has the leverage of withholding the benefit to insure the veteran honors the repayment plan. If the veteran defaults

on a repayment plan, VA cannot withdraw the guarantee, and even if VA could, it would be to the detriment of the lender rather than the veteran.

To determine whether veterans were defaulting on repayment plans after they obtained a VA guaranteed mortgage, we discussed the matter with VA regional officials in Los Angeles, Philadelphia, and Denver. Officials in both the Los Angeles and Philadelphia offices stated that veterans were defaulting on repayment plans. The Denver office did not separate the repayment plans related to mortgage guarantees from other repayment plans, and therefore, it could not readily determine the status of the former repayment accounts.

At the Los Angeles regional office, the finance officer took a sample of 30 repayment agreements and found only 4 were paid in full or the agreed payments were being made. As a result of this sample, the finance officer began requesting payment in full rather than establishing repayment plans. We noted that the VA regional offices in Chicago and San Francisco also adopted the policy of requiring veterans to pay their educational-related debt before the approval of guaranteed home loan applications. At the time of our inquiry, no negative reaction by veterans to this procedure had occurred. The collection experience in these regions indicates that veterans are willing and able to pay the full indebtedness amount to obtain a guaranteed home loan.

The Philadelphia regional office has had similar experience with repayment plans. Of the 22 repayment plans established during June 1979, 10 (45 percent) were delinquent at the time of our inquiry. For example, one veteran with a \$1,273 terminated education overpayment account signed an agreement in July 1979 to repay \$50 a month. By the end of October 1979 the account was delinquent 2 months. He had paid only \$75, reducing the debt to \$1,198 with the most recent payment having been made in August.

From May 1979 through July 1980, VA had recouped over \$7.4 million from its match of guaranteed home loan applications with education indebtedness. This sum includes debts paid in full and initial cash payments on repayment plans. For the same period, about \$2.4 million has been put into repayment plans which, based on the Los Angeles and Philadelphia experiences, will not be fully collected. It is

unlikely all veterans will voluntarily repay a debt once the guaranteed mortgage benefit is obtained, especially since these veterans have ignored past collection efforts by VA.

Accordingly, we believe VA should adopt a general policy of requiring, to the maximum extent practicable, that delinquent and terminated debts be repaid in full before approving a guaranteed home loan. In fact, 38 U.S.C. 1810(b) states, among other things, that VA cannot guarantee a home loan unless "the veteran is a satisfactory credit risk." We seriously question whether veterans who have ignored past collection efforts by VA can reasonably be considered satisfactory credit risks, particularly in view of the Los Angeles and Philadelphia regional offices' experience with repayment agreements signed by such veterans.

All guaranteed mortgage applications  
should be checked before approval

Guaranteed mortgage applications may be automatically processed by some commercial lenders under 38 U.S.C. 1802, as opposed to processing by VA. The purpose of this procedure is to provide better service to veterans by expediting loan processing. From January through June 1979, about 17 percent of the loans VA guaranteed were closed automatically.

Under VA's matching program, the lender is responsible for asking the veteran about education indebtedness for loans closed automatically. VA relies upon the honesty and memory of the veterans to reveal their indebtedness. To determine how well this voluntary disclosure system is working, we gathered information from the Los Angeles, Denver, and Philadelphia VA regional offices.

At all three regions, the voluntary disclosure failed to reveal education indebtedness of veterans who had obtained a VA guaranteed mortgage. In the three regions we documented 77 cases where loans were closed and veterans evaded repaying a total of \$35,190. For 35 of the 77 cases, veterans signed statements disclaiming educational indebtedness when it did exist. The signed statements were used by some automatic lenders but not required by VA. The 77 cases represent about 6 percent of the loans checked. In our check we relied upon



loan information furnished by VA regional officials for about a 3-month period after VA notified lenders to check for indebtedness.

Some examples of veterans who were indebted to VA and obtained a guaranteed mortgage are:

--In August 1979 a veteran in the Denver region purchased an \$88,500 home with the help of a \$78,500 loan guaranteed by VA. The veteran signed a statement for the automatic lender denying VA indebtedness, even though he had an education overpayment of \$1,090.

--Another Denver region veteran with a terminated education overpayment for \$267 obtained a VA guaranteed loan for \$100,000 on a \$117,000 home. He also signed a statement for the lender indicating he did not have an overpayment.

--A Los Angeles region veteran with a \$145 overpayment purchased a \$108,000 home with the help of an \$83,000 VA guaranteed loan. He signed the following statement for the automatic lender: "I do not presently have outstanding any educational related indebtedness to the Veterans Administration."

--A final example in the Philadelphia region is a veteran who acknowledged having an overpayment to the lender, but indicated he had an agreement with VA to repay \$20 monthly, and based on this agreement his loan for \$25,900 was closed in May 1979. Our check of the veteran's record in late September, however, showed the last monthly payment on the \$1,488 overpayment was also made in May. The VA regional office sent the veteran a letter in June which strongly recommended he pay or arrange to pay the indebtedness, but payment was not received.

These examples illustrate the basic weakness in the VA program which relies on automatic lenders to check for educational indebtedness and veterans to voluntarily disclose indebtedness.

In some cases veterans may not be aware of their debts when questioned by lenders. Under the VA collection system veterans may not have been notified of the debt if a correct address was not obtained for sending collection letters.

VA currently checks automatically guaranteed mortgages after they are closed. This check is to record locator information for contacting veteran home buyers who have education indebtedness. At the Philadelphia VA regional office a collection letter is sent to the veteran if education indebtedness is found. The Denver and Los Angeles offices did not contact veterans about indebtedness disclosed in their check of automatically closed loans.

Accordingly, we believe commercial lenders authorized to automatically guarantee home loans should run a credit check with VA for education indebtedness at the same time they are verifying other credit data and references provided by the veteran home loan applicant. Unless VA proves to be unusually slow in responding to such inquiries, we do not believe this procedure will result in any substantive increase in the loan processing time.

#### DECREASE USE OF INVESTIGATIVE CREDIT REPORTS

At the time of our fieldwork, VA had a contract with a firm to provide investigative credit reports on debtors. Each investigative credit report costs VA about \$5.75, as opposed to about \$1.60 for each commercial credit bureau report we obtained in our test. In fiscal years 1977 and 1978 VA spent an estimated \$1.1 million and \$700,000, respectively, for credit reports. Many of the credit reports VA purchased did not contain useful information because the veteran could not be located. In fiscal year 1977, 46 percent of the reports were returned to VA with the veterans not being located. In fiscal year 1978, the percentage was 42 percent. If a locator action by CARS yields a different address for a debtor, another credit report may be ordered. Therefore, in some cases VA paid over \$10 to determine whether a veteran had sufficient assets for referral to Justice.

Furthermore, the information received in credit reports is not independently verified on a sample basis by VA. A veteran could tell a credit investigator that he is unemployed while holding a steady job, or a credit investigator could simply indicate a veteran is unemployed without attempting to contact the veteran.

In an attempt to verify information VA was receiving from investigative credit reports, we requested credit bureau

reports for 55 accounts in which the VA investigative credit report showed the veteran was unemployed or did not have sufficient income for referral to Justice. Of the 55 cases, 17 (31 percent) had what we considered good credit reports. In one case, the investigative credit report indicated the veteran was unemployed, but the credit bureau report showed the veteran as employed which we confirmed with the employer. This veteran had an overpayment of \$1,086.

In another test we requested credit bureau reports for 51 veterans whom VA's investigative credit reports indicated could not be located. Of these 51, 16 (31 percent) had good credit reports and 10 showed a different address than the one used by VA. For example, VA requested an investigative credit report for one veteran with an overpayment of \$3,479. The report indicated that the veteran's street address furnished by VA was erroneous, and the debtor was not located. However, the credit bureau report we obtained indicated the veteran worked with USPS, had a different address, and had secured a real estate mortgage loan of \$16,700.

We believe VA needs some type of independent verification of the information it is receiving from investigative credit reports. The information from this type of credit report often determines the disposition of an account so VA should be assured the information is accurate and complete.

The cost of VA investigative credit reports was more than three times the cost of credit bureau reports we obtained, and in many instances, the credit bureau reports provided more useful information. A large percentage of investigative credit reports which VA obtained did not yield useful debt collection information. However, investigative credit reports may provide the best information available in some instances; for example, in a case where a veteran did not have any type of credit record.

#### COMBINE MULTIPLE OVERPAYMENTS

The VA debt collection system allows debtors to have two educational assistance overpayments pursued independently of each other. As a result, debtors are solicited for amounts which do not reflect the total amount owed and accounts which should be considered for referral to Justice are not.

In our sample of 1,200 veterans' accounts, 27 (2 percent) had 2 terminated educational overpayment accounts. Two receivables were created primarily because of late updating of award benefits, attendance did not cover special benefit payments, or special payment was given when an outstanding overpayment existed. Special payments can be made to individuals when delays in processing regular benefit payments cause a hardship. An example of late award action is a veteran whose \$129 overpayment account was terminated in December 1977. A stop payment transaction changing the benefit period was initiated by the regional office and created another overpayment of \$406 in March 1978. This account was terminated by CARS in September 1978. These accounts were pursued separately in CARS with three letters sent for each account.

An example involving special advance payment is a veteran who had a \$220 overpayment account which was terminated in August 1975. In December 1976 the VA regional office gave the veteran a \$780 special advance payment without affecting the terminated overpayment. A \$12 overpayment resulted when the subsequent award proved to be inadequate to fully offset the \$780 special advance payment. Another special payment of \$548 was given to the veteran in April 1977 even though two overpayments already existed. However, no award action was ever taken on this special payment, and a third overpayment account was established in the amount of \$548. These last two overpayments were later combined for a total of \$560. The account was not considered for referral to Justice even though the three debts (including the terminated account) totaled \$780.

As of August 1977, the CARS system had the capability to combine receivables. When an account is placed in terminated status and removed from CARS, however, it is not combined with subsequently created overpayments. In the veterans' accounts with 2 receivables, 23 were not combined, and most of these involved an account in terminated status while an active account was being pursued. As a result, debtors were sent collection letters for an amount which was less than the full amount owed. In seven of these cases, a combination of the debts exceeded the dollar limit for referral to our office or Justice.

Because multiple education overpayments are not combined in certain circumstances, debtors are sent collection letters for less than the full amount owed and accounts which should be considered for referral to Justice are not. Also, special payments for education benefits are made without checking for outstanding education overpayments.

## CHAPTER 4

### A SPECIAL CASE--COLLECTION FROM FEDERAL EMPLOYEES

Ironically, VA and other Federal agencies have difficulty collecting debts from other Federal agency and USPS employees. About 6 percent of the debtors with uncollected overpayments in our sample were employed with the Federal Government. Current law does not allow involuntary collection from an employee's salary when the employee refuses to pay. A Federal employee can refuse to repay a VA overpayment, and to pursue collection, the account must be sent to Justice for costly and time-consuming collection action. Moreover, even if Justice does go through the costly litigation process and obtains a judgment against a Federal employee, it generally cannot garnish the employee's Federal salary.

### CURRENT LAW HAMPERS DEBT COLLECTION FROM FEDERAL EMPLOYEES

Federal employees are "\* \* \* expected to meet all just financial obligations, especially those--such as Federal, State, or local taxes--which are imposed by law." 1/ A Government agency may use the setoff procedure against an employee's current salary to collect a debt which arises from an erroneous payment made by the agency to or on behalf of the employee. Also, agencies may set off against current salary to collect unused advances for travel and transportation expenses. 2/ However, the Government cannot withhold current salary of employees to satisfy general debts owed to the Government without the employee's consent. In a decision sent to the Secretary of the Navy, the Comptroller General concluded:

"In the absence of specific statutory authority, no justification exists to set off general debts due the United States by its employees without their consent against current salary payments

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1/Executive Order No. 11222, 30 F.R. 6469.

2/5 U.S.C. sections 5514, 5705, and 5724(f).

due the employees for their services, even though such debts be liquidated and undisputed  
\* \* \*." 1/

If an employee terminates employment, a debt may be collected from final salary payments or payment for accrued annual leave. The Federal Government also has the right to set off indebtedness administratively against annuity payments or refunds of retirement contributions. The problem with these collection options is the Government must often wait years until collection occurs, which is contrary to good management practices and the standard for aggressive timely collection stated in the Federal Claims Collection Standards. Also, interest is not charged when collecting from annuity payments or retirement contributions unless the creditor agency requests it be charged, and with high inflation rates, the real value of debts owed the Government declines rapidly.

When an agency is trying to collect from a Federal employee, it is directed under 4 CFR 102.5 (1980) to contact the employing agency to arrange payment. However, the employing Federal agency cannot compel an employee to pay although a few court actions have resulted in the dismissal of an employee for frequent and persistent failure to meet financial obligations. 2/ An exception is collection of delinquent taxes from an employee's salary when an IRS tax levy is served on the employing agency. Under 26 U.S.C. 6331, a levy to collect taxes may be made upon the accrued salary or wages of any officer, employee, or elected official of the United States. Therefore, some types of Federal debts may be involuntarily collected from an employee's salary but not others.

VA and other Federal agencies can refer Federal employee debts to us or to Justice for further collection, but one of the most forceful collection tools--wage garnishment--cannot be used against Federal employees. "A judgment creditor cannot garnish [the] amount due his debtor by the United States

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1/29 Comp. Gen. 99 (1949).

2/McEachern v. Macy, 341 F. 2d 895 (4th Cir. 1965); Jenkins v. Macy, 357 F. 2d 62 (8th Cir. 1966); and Dennis v. Blount, 497 F. 2d 1305 (9th Cir. 1974).

without the consent of the United States to being sued \* \* \*." 1/ An exception to this is wage garnishment for the collection of child support or alimony payments. 2/ Also, Justice recently determined that USPS employees may have their wages garnished where allowed by State law. Justice may attach a civilian Federal employee's assets, such as a savings account, with a judgment, and it may also appeal to the Federal employer for cooperation in collecting the debt.

#### LEGISLATION IS NEEDED TO STRENGTHEN COLLECTION FROM FEDERAL EMPLOYEES

The collection of general Government debts from Federal employees is a burdensome process for all involved. Payment of these debts is voluntary, and many Federal employees are in a secure position for refusing or delaying payment. Little incentive exists for most employees to pay or for the employing agencies to help other agencies collect funds.

#### VA's collection from Federal employees needs improvement

The VA collection process for non-VA Federal employees can be improved to effect more efficient collection. Serious problems exist in VA's identification of Federal debtors and in the collection methods that rely on the voluntary cooperation of the debtor and employing Federal agency.

Identification of Federal employees by CARS is generally confined to accounts \$600 or larger because the only systematic identification method used is investigative credit reports obtained for referring accounts to Justice. VA may also identify a debtor as a Federal employee if a debtor requests a repayment plan or compromise offer and sends in the required VA financial status report which may show Federal employment. Because most terminated education overpayment accounts are under \$600, CARS is not identifying most Federal employee accounts. At the time of our review, however, VA was planning a matching program to identify both VA and non-VA Federal employees who owe money to the Government.

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1/Applegate v. Applegate, 39 F. Supp. 887 (D. VA. 1941).

2/42 U.S.C. 659.



The following examples obtained from the credit bureau report show that the debtor was a Federal employee and that VA was unaware the debt was owed by a Federal employee.

- A veteran with a \$422 overpayment received the three CARS collection letters in early 1978 and had his account terminated in October 1978. No attempt was made to determine whether the veteran was a Federal employee. His credit bureau report showed he was employed with the Government and had obtained a real estate mortgage for \$12,500.
- In September 1977 a veteran had his \$774 overpayment terminated because he could not be located. His credit bureau report showed in September 1978 he was employed at a VA hospital. We verified his employment in May 1979.
- A veteran had his \$999 overpayment terminated in June 1978. The VA investigative credit report and a VA field exam did not yield information on employment or assets. The veteran's credit bureau report showed that he was employed by the Long Beach Naval Shipyard and had favorable credit entries dating back to 1973.

After three collection letters are sent to a debtor and CARS identifies the debtor as a non-VA Federal employee, an additional collection letter is sent informing the debtor his or her employer will be contacted if payment is not received. If a response is not received, a letter is sent to the employer requesting cooperation in collecting the debt.

To find out how well this procedure works, we selected a judgment sample of 62 accounts CARS had identified as Federal employees. Of these, 52 percent (32 accounts) were USPS employees, 39 percent DOD employees, 3 percent Air National Guard employees, and 6 percent other Federal agency employees. We contacted 13 post offices and 3 postal data centers to document actions taken when they receive VA letters requesting collection assistance. At all except 1 of 13 post offices contacted, employees are counseled about the debt. Officials at one post office said they wait for a second letter, which CARS does not routinely send, before the employee is counseled. Officials at only three of the post offices told us that they take followup action after counseling, although officials at

nine said they would follow up if a second request were received. At none of the 13 post offices is disciplinary action taken against the employee for nonpayment of debts.

We also requested credit bureau reports for the 32 USPS employees. Credit reports were available for 29, and 62 percent of these had what we considered good credit reports. For example, one veteran having a \$776 overpayment was sent the standard CARS collection letters, but no payments were received. VA notified USPS and received a response that the indebtedness would be called to the employee's attention. These collection actions were not successful, and the account was referred to Justice where collection was successful. His credit bureau report showed he had paid two auto loans, one for \$4,600 and another for \$6,100.

We also contacted officials from the three military services at six military installations to determine the response to CARS collection efforts. At five of the six installations officials said the employee is contacted when the VA letter is received, and at three installations the employee is asked to prepare a statement which is forwarded to VA concerning how the debt will be resolved. Disciplinary action ranging from letters of caution to removal from their job is taken at five of the installations if employees do not pay their debts. The consensus at all six installations was that debts owed the Federal Government should be involuntarily offset if employees do not pay.

Credit bureau reports were obtained for 16 of the 24 DOD cases. Eight of the 16 had good credit reports and the ability to repay the overpayment. For example, a veteran with a \$637 overpayment was sent three standard collection letters but no payments were received. The veteran's employer, the Air Force, was contacted in January 1979 and replied in a letter to VA that the veteran "has been advised of the receipt of your letter and has been requested to contact you and resolve this matter with you directly." The veteran later made payments totaling \$400, but at the time of our inquiry in November 1979, his account was delinquent. The veteran's credit bureau report indicated he had obtained a \$9,100 auto loan in 1977.

Is writing Federal employers a successful collection tool? For the 62 accounts sampled, 26 (42 percent) had been referred to a U.S. attorney by August 1979. We estimated that CARS had

referred to U.S. attorneys for collection 557 accounts totaling \$636,000 between March 1978 (when the referrals began) through August 1979. The procedure of writing the Federal employer for cooperation in collection obviously did not work in these cases.

#### Other Federal agencies need help too

We identified two other agencies, Labor and the Department of Education, that were trying to collect debts from Federal employees. Again, these agencies must rely on voluntary cooperation of Federal employees to pay their debts and supervisors in other Federal agencies to assist in the collection process.

Labor tries to collect from Federal employees overpayments of benefits under the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 et seq. Under this act, Federal employees are paid compensation when they are disabled as a result of personal injury in performance of their duties. When compensation begins, the injured employee is informed that if they return to work they must notify Labor so that benefits can be reduced or eliminated. The employing agency is also required to notify Labor when the employee returns to work. Overpayments occur when Labor is not notified and salary is received without a concurrent reduction in benefits. Overpayments may also be caused by using improper pay rates, failing to deduct health benefits, and processing errors. Collection of FECA overpayments is the responsibility of Labor district offices nationwide, and in certain instances overpayments may be waived by Labor. As of June 1979, Labor reported outstanding FECA account receivables of \$3.7 million.

We gathered information on Labor's collection process at the Cleveland district office. Labor's collection process is similar to VA's. Letters are sent first to the employee and then to the Federal employer attempting to collect the overpayment. For example, a USPS employee was overpaid \$3,274 in benefits in 1976 when she returned to work and did not notify Labor promptly. Collection letters were sent to both the employee and employer, but as of October 1979 the receivable remained uncollected.

The Cleveland Labor office was attempting to collect 94 FECA account receivables at the time of our visit in October 1979. We examined 28 overpayment cases and determined

that 13 (46 percent) could have been collected through involuntary offset from current salary when the employee returned to work. For example, a USPS worker suffered a dislocated shoulder while on the job in August 1976. He returned to duty in October but continued to receive compensation through December 1976 which resulted in a \$2,566 overpayment. The employee did not respond to Labor's collection letters, and if Labor could have promptly offset the debt against current salary, we believe the overpayment may have been collected. In February 1979 he was fired by USPS and his subsequent place of employment was unknown to Labor. Therefore, collection of this account was doubtful.

At Education a similar situation exists in its collection of defaulted federally insured guaranteed student loans (GSLs). As of January 1977 there were more than 300,000 of these defaulted loans involving about \$300 million. To collect from defaulters who are Federal employees, Education follows procedures similar to VA and Labor. Collection letters are sent first to the employee and, if no response is received, then to the employer. Payment is voluntary and employers are asked by Education to counsel the debtors about payment. Debtors are also asked by their employer to sign a form acknowledging the debt.

In February 1978, Federal civilian and postal employees were matched with lists of Education defaulted loans, and 6,783 persons were identified involving about \$7.5 million in loan principal. As of April 15, 1979, 631 had repaid in full, 2,940 had agreed to repayment plans or promised to pay, and another 302 had been sent to Justice for litigation. If involuntary offset from current salary had been available, we believe accounts would not have been sent to Justice for further costly collection action and obtaining repayment plans would have been facilitated. Involuntary offset would also be helpful in collecting from Federal employees identified in future GSL and other Education programs:

In a letter to us about collection from annuity payments, Justice's Office of Legal Counsel indicated it would support a legislative change to allow involuntary collection from Federal employees' current salary.

## CHAPTER 5

### CONCLUSIONS, RECOMMENDATIONS, AND AGENCY COMMENTS

#### CONCLUSIONS

Over the past 5 years, VA has experienced serious problems in attempting to collect educational assistance overpayments and other debts from veterans. The cumulative amount of educational assistance overpayment accounts, on which VA has terminated collection action, grew from about 113,000 accounts totaling about \$10 million as of June 1975 to almost 700,000 accounts totaling \$198 million as of June 1980 even though many veterans with terminated accounts appear to have the ability to repay the money they owe VA. According to commercial credit bureau reports we obtained for several random samples of veterans whose accounts had been terminated as uncollectable, most were employed, had an established history of paying their private-sector creditors, and were able to command private-sector lines-of-credit equal to or greater than the amounts they owed to VA.

Although we identified several factors which have hampered VA's efforts to collect these debts, we believe the most significant factor limiting VA's effectiveness in carrying out this function is that VA has not had the "clout" which private-sector creditors have--i.e., veterans have been able to ignore VA's demands for repayment with little or no fear of reprisal or any of the adverse actions which would normally result from failure to pay debts they owe to private-sector creditors. To help overcome this problem, we worked closely with both the House and Senate Veterans' Affairs Committees and with VA on various legislative proposals designed to strengthen VA's debt collection capability by permitting VA to adopt certain private-sector credit industry practices. On several occasions during our review we testified before these Committees on the results of our review and the need for legislation to (1) clearly authorize VA to report delinquent and terminated accounts to commercial credit bureaus, (2) give VA attorneys authority to litigate debt collection cases, and (3) require VA to charge interest and recover administrative collection costs on accounts not repaid within a reasonable time period. These recommendations were subsequently incorporated into Public Law 96-466, dated October 17, 1980. We believe prompt and effective implementation of this legislation will greatly enhance VA's debt collection capability.

Several other problems which have hampered VA's collection efforts could be corrected through administrative action by VA. The first pertains to VA's withholding of the mortgage guarantee benefit. Specifically, we believe VA should limit the use of repayment plans as an option for veterans with delinquent or terminated accounts. In some cases, debtors have reneged on repayment plans once they have their VA guaranteed mortgage and VA then has little collection leverage. VA could also improve collections by tightening its controls pertaining to mortgages closed automatically.

A second area where VA could improve collections is by obtaining information on debtors more economically and by verifying the information it is receiving on investigative credit reports. The reports VA purchases are expensive, are often unproductive, and sometimes contain information of questionable validity.

The third problem area VA can correct pertains to multiple overpayments to the same veteran. By not combining all overpayment accounts, collection action is taken only on part of the amount owed. Also, when special payments are made to veterans without deducting outstanding overpayments, additional benefits are provided without reducing the outstanding debt.

Finally, additional legislative action by the Congress is needed to correct two other debt collection problem areas which have hampered the debt collection efforts not only of VA but also other Federal agencies. First our work in several agencies showed that the collection of general Government debts owed by Federal employees is a time-consuming and burdensome process. Often the process is unsuccessful and accounts are sent to Justice for further costly collection action and possible litigation. Obtaining payment depends on the voluntary cooperation of the debtor and cooperation of agency officials in counseling employees about the debt. When an employee refuses to pay, the collection process is lengthened, accounts become old, and they may ultimately be referred to Justice. We believe a legislative provision allowing offset against current salary would give agencies a tool to improve the collection process.

The other problem area needing legislative action is clarification of whether administrative debt collection efforts, such as offset, are subject to the 6-year statute of limitations in 28 U.S.C. 2415. We believe 28 U.S.C. 2415 applies only to judicial action and does not bar agencies

from attempting to collect debts through such administrative means as sending collection letters, reporting debts to credit bureaus, or collecting through offset against the retirement benefits of Federal employees; however, Justice disagrees, at least insofar as administrative offsets are concerned. Although Public Law 96-466 has exempted VA from any time limitation on offsetting benefits, it neither resolves the question regarding other administrative collection actions which VA may wish to take nor resolves the problem for other Federal agencies.

#### RECOMMENDATIONS TO THE ADMINISTRATOR OF VETERANS AFFAIRS

We recommend that the Administrator:

- Resume collection action on terminated educational assistance overpayment accounts using the collection methods discussed in this report.
- Implement immediately the debt collection provisions of Public Law 96-466 which (1) permit VA to report delinquent and terminated accounts to commercial credit bureaus, (2) give VA attorneys the authority to litigate debt collection cases, and (3) require VA to charge interest and recover administrative collection costs on debts owed to VA.
- To the maximum extent practicable, require payment in full rather than repayment plans for debts disclosed when matching guaranteed home loan applications with educational assistance.
- Require commercial lenders to give VA veteran identification information on applicants for automatically guaranteed home loans so VA can check for indebtedness before the loans are closed. If indebtedness exists, the lender should be notified to withhold closing until the veteran pays the debt.
- When possible, obtain debtor ability-to-pay information in a more economical manner, such as from commercial credit bureau reports.
- On a test basis, independently verify the accuracy of investigative credit report information.
- Combine terminated and current overpayments of individual debtors so the full debt amount is pursued.

- Instruct VA regional offices to deduct outstanding overpayments from special benefit payments.]
- Implement a program to periodically match delinquent and terminated educational assistance overpayment accounts with computer listings of current Federal civilian and military personnel.]

#### RECOMMENDATIONS TO THE CONGRESS

We recommend that the Congress:

- Monitor VA's collection activities to ensure prompt and effective implementation of the debt collection provisions of Public Law 96-466. Prompt implementation is particularly important because many of VA's older terminated accounts are nearing the 6-year statutory limitation for filing court suits, and because of the statutory limitation on credit bureaus disclosing information over 7 years old.]
- Enact legislation to amend 5 U.S.C. 5514(a) to permit involuntary collection of general Government debts from the current salary of Federal employees. Presently, 5 U.S.C. 5514(a) has been interpreted as being applicable only to debts incident to the employment or services of such employees rather than including other types of debts, such as delinquent and terminated VA educational assistance overpayments or defaulted student loans. We anticipate that involuntary collections through offset would occur after other administrative collection actions have been exhausted and the employees' rights to due process have been met. Involuntary collection would eliminate the untenable situation of a Federal employee receiving a salary while refusing to repay a general Government debt.
- Enact legislation to specify that the 6-year statute of limitations contained in 28 U.S.C. 2415 applies only to court action by the Government, and that it does not include administrative collection actions by Federal agencies, such as offsetting uncollectable debts owed by Federal employees against their final salary payments or retirement benefits. This legislation is needed to resolve the impasse between our office and Justice on the issue.]



#### AGENCY COMMENTS

On October 3 and 6, 1980, respectively, we sent copies of our draft report to VA and Justice for comment pursuant to Public Law 96-226. The agencies neither submitted comments within the statutory 30-day time limit nor requested an extension. The comments received from VA and Justice after the statutory comment period had expired are included as appendixes III and IV without our analysis.

**(FIRST COLLECTION LETTER)**  
**VETERANS ADMINISTRATION**  
**CENTER**

P. O. BOX 1930  
 FEDERAL BUILDING, FORT SNELLING  
 ST. PAUL, MINNESOTA 55111

MARCH 3, 1978



15

IN REPLY REFER TO: 335/28  
 FILE NUMBER: C-2  
 PAYEE NUMBER: 00  
 DEDUCTION CODE: 418  
 PERSON ENTITLED:

YOUR EDUCATIONAL ASSISTANCE ALLOWANCE HAS BEEN DISCONTINUED  
 EFFECTIVE DECEMBER 17, 1977.

THIS ACTION IS BASED UPON THE RECENT REPORT THAT YOU TERMINATED  
 YOUR ATTENDANCE AS OF THAT DATE.

AS OF THE DATE OF TERMINATION, YOUR REMAINING ENTITLEMENT IS  
 23 1/4 MONTHS.

YOU WERE PAID BEYOND 12-17-77 AS FOLLOWS:

MONTHLY RATE	EFFECTIVE DATE	LAST PAID
\$156.00	12-18-77	2-28-78

THIS CHANGE HAS RESULTED IN AN OVERPAYMENT OF \$379.60. THIS  
 DEBT MUST BE REPAID. YOUR CHECK OR MONEY ORDER SHOULD BE MADE  
 PAYABLE TO THE VETERANS ADMINISTRATION AND MAILED TO THE AGENT  
 CASHIER, VA CENTER, P.O. BOX 1930, ST. PAUL, MINNESOTA 55111.  
 BE SURE TO INCLUDE YOUR NAME AND FILE NUMBER FOR PROPER IDENTIFI-  
 CATION. IF YOU ARE UNABLE TO PAY THE FULL AMOUNT IN ONE PAYMENT  
 YOU SHOULD SUBMIT A PARTIAL PAYMENT AND STATE HOW YOU PLAN TO PAY  
 THE BALANCE.

IF YOU WISH THIS DEBT CONSIDERED FOR WAIVER, WRITE THE VA CENTER,  
 ST. PAUL, EXPLAINING WHY YOU FEEL THE OVERPAYMENT IS NOT SOLELY  
 YOUR FAULT. STATE WHETHER YOU KNEW, WHEN CASHING THE CHECK(S)  
 INVOLVED IN THIS OVERPAYMENT, THAT YOU WERE NOT ENTITLED TO ALL  
 OR PART OF SAID CHECK(S). IF YOU DID NOT KNOW, STATE WHY NOT. IF  
 YOU DO REQUEST WAIVER, WE WILL LATER ASK YOU FOR FINANCIAL INFOR-  
 MATION VERIFYING YOUR NEED FOR WAIVER TO AVOID UNDUE HARDSHIP.

REPAYMENT MAY BE DEFERRED IF YOU HAVE REENTERED OR PLAN TO  
 REENTER TRAINING IN THE NEXT 45 DAYS AS THE OVERPAYMENT WILL BE  
 WITHHELD FROM ANY AMOUNT DUE.

FL 22-800  
 MAY 1977

PLEASE DETACH AND RETURN WITH YOUR PAYMENT

PAYMENT REMITTANCE				
*FILE NUMBER	PAYEE NO.	NAME OF PERSON ENTITLED	DEDUCTION CODE	AMOUNT ENCLOSED
	J0		418	
FOR CHANGE OF ADDRESS, ENTER YOUR NEW ADDRESS TO THE RIGHT OF YOUR OLD ADDRESS. INCLUDE YOUR ZIP CODE.				
* Please include this number on your check or money order.				

FL 22-800, MAY 1977

(SECOND COLLECTION LETTER)



**VETERANS ADMINISTRATION**  
 CENTER  
 P.O. Box 1930  
 FEDERAL BUILDING, FORT SNELLING  
 ST. PAUL, MINNESOTA 55111

IN REPLY REFER TO: 335/ 8

FILE NUMBER:

PAYEE NUMBER:

PERSON ENTITLED:

DEDUCTION CODE:

We recently called your attention to an overpayment of \$ \_\_\_\_\_ in your VA benefits. Our records indicate that we have not heard from you regarding repayment or other settlement of this debt.

The law requires us to follow certain procedures in collecting amounts due the Government. Therefore, we must caution you that non-payment of this debt may result in additional expense and personal inconvenience to you.

The bottom portion of this letter should be returned with your remittance. A self-addressed envelope requiring no postage is enclosed for your convenience.

If you have recently paid this debt or written to us, thank you and please disregard this letter.

Chief, Centralized Accounts Receivable Division

Enclosure

FL 4-415  
 May 1976(R)

PLEASE DETACH AND RETURN WITH YOUR PAYMENT

PAYMENT REMITTANCE				
* FILE NUMBER	PAYEE NO.	NAME OF PERSON ENTITLED	DEDUCTION CODE	AMOUNT ENCLOSED \$
ENTER YOUR CURRENT ADDRESS BELOW ONLY IF THE ONE ABOVE IS INCORRECT. INCLUDE YOUR ZIP CODE.				
*Please include this number on your check or money order.				



(THIRD COLLECTION LETTER)  
(DEBTS UNDER \$600)  
**VETERANS ADMINISTRATION**  
CENTER  
P.O. BOX 1930  
FEDERAL BUILDING, FORT SNELLING  
ST. PAUL, MINNESOTA 55111

IN REPLY REFER TO: 335/28  
FILE NUMBER:  
PAYEE NUMBER:  
PERSON ENTITLED:  
DEDUCTION CODE:

We have written to you previously about your debt of \$ , It is now urgent that you contact this office within 5 days regarding settlement of this debt.

We have authority to accept a lesser amount in full settlement of your debt. Careful consideration will be given to an offer of any reasonable amount in relation to your financial status. A compromise offer cannot be considered unless accompanied by a completed Financial Status Report. A form for this report is enclosed along with a self-addressed envelope requiring no postage.

Chief, Centralized Accounts Receivable Division

Enclosures 2

FL 4-417  
May 1976(R)

PLEASE DETACH AND RETURN WITH YOUR PAYMENT

PAYMENT REMITTANCE				
* FILE NUMBER	PAYEE NO.	NAME OF PERSON ENTITLED	DEDUCTION CODE	AMOUNT ENCLOSED \$
ENTER YOUR CURRENT ADDRESS BELOW ONLY IF THE ONE ABOVE IS INCORRECT. INCLUDE YOUR ZIP CODE.				
*Please include this number on your check or money order.				



**(THIRD COLLECTION LETTER)  
(DEBTS \$600 OR GREATER)  
VETERANS ADMINISTRATION  
CENTER  
P.O. BOX 1930  
FEDERAL BUILDING, FORT SNELLING  
ST. PAUL, MINNESOTA 55111**

IN REPLY REFER TO: 335/28  
FILE NUMBER:  
PAYEE NUMBER:  
PERSON ENTITLED:  
DEDUCTION CODE:

We have written to you on several occasions about your debt of \$  
urgent that you contact this office immediately regarding settlement of the debt.

It is now

We have authority to accept a lesser amount in full settlement of your debt. Careful consideration will be given to an offer of any reasonable amount in relation to your financial status. A compromise offer cannot be effectively considered unless accompanied by a completed Financial Status Report. A form for this report is enclosed along with a self-addressed envelope requiring no postage.

If we do not hear from you within 30 days from the date of this letter, we are required to refer your debt to the United States Attorney for further collection action. This may result in court action and the addition of U.S. Marshal's fees, court costs, and interest to your debt.

**Chief, Centralized Accounts Receivable Division**

Enclosures 2

FL 4-429  
Jan 1978

**PLEASE DETACH AND RETURN WITH YOUR PAYMENT**

PAYMENT REMITTANCE				
*FILE NUMBER	PAYEE NO.	NAME OF PERSON ENTITLED	DEDUCTION CODE	AMOUNT ENCLOSED
				\$
ENTER YOUR CURRENT ADDRESS BELOW ONLY IF THE ONE ABOVE IS INCORRECT. INCLUDE YOUR ZIP CODE.				
<p>*Please include this number on your check or money order.</p>				

**TRW CREDIT DATA****EASTERN REGION****SAMPLE REPORT**

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1. Full name and address of applicant — as stored in the computer.
2. Employment — full name and address.
3. The red, white and blue profile column indicates negative, not evaluated and positive status comments.
4. A — indicates the subscriber reporting does so via automated tapes; M — indicates manual reporting method.
5. Name and number of reporting subscriber.
6. Association code.
7. Account number.
8. Current status of account and date that status was reported.
9. Date account opened, type, terms and amount of account.
10. Balance on account, date input and amount past due if applicable.
11. 12 month history.
12. Two lines of data for each transaction.
13. Legal data, court code, amount, docket number, plaintiff.
14. Indication of a variation between input data and file identification.
15. Up to 100 word statement by consumer request.

IMPORTANT: Use of this information is governed by the terms and conditions of the subscriber agreement. NOTE: It is possible that all of the above information may not pertain to the individual inquired upon unless otherwise noted. Employments shown on this report are as reported by subscribers.

Office of the  
Administrator  
of Veterans Affairs

Washington, D.C. 20420



Veterans  
Administration

DECEMBER 16 1980

Mr. Gregory J. Ahart  
Director, Human Resources Division  
U. S. General Accounting Office  
Washington, DC 20548



Dear Mr. Ahart:

Your October 3, 1980 draft report, "Legislation and More Aggressive Action are Needed to Strengthen Debt Collection Efforts Within VA," has been thoroughly reviewed by my staff. Unfortunately, much of your report is based on facts and laws which have substantially changed since your study was initiated and the draft report was transmitted to the Veterans Administration (VA). These changes are not reflected in the conclusions or recommendations. The most significant development has been the enactment of Public Law 96-466 on October 17, 1980. This Law incorporates or otherwise affects many of the report's recommendations.

If implemented, several of the recommendations would have a major impact on this Agency. These concern the charging of interest and administrative costs, reporting to credit bureaus, and the litigation of debts by VA attorneys. Implementing the recommendations is contingent on obtaining additional personnel resources for our Controller, Department of Veterans Benefits, Office of Data Management and Telecommunications, and General Counsel, as well as approval for a larger computer at the St. Paul Data Processing Center (DPC).

The Centralized Accounts Receivable System (CARS) is the automated data processing (ADP) debt collection system for benefit oriented overpayments. It is maintained at the St. Paul DPC and processed on an IBM 360/40 computer. CARS has been, and will continue to be, modified to meet user requirements within the limitations of processing hardware. Project Match is already in progress, and procedures for nationwide referral of cases to VA District Counsels for debt litigation are currently under development and will be implemented in CARS within the next several months.

However, we are approaching the IBM 360/40 computer system capacity limit. Actions such as interest charging, commercial credit bureau referral, and reactivation of terminated accounts have been under active analysis and review since the legislative initiatives were proposed approximately one year ago. Our Office of Data Management and Telecommunications, in conjunction with user personnel, has been developing functional requirements and weighing these requirements against the current system from a programming and hardware standpoint. While analysis will continue, processing hardware which has met CARS support requirements up to this point cannot support a CARS which incorporates the recent legislative mandates. Implementing this legislation will triple file sizes, expand record sizes, and

greatly increase processing complexity. Without adequate hardware, our ability to meet ADP support requirements will be limited. Realizing this, we requested retention of the S360/65 computer recently declared surplus at the Austin DPC and recommended it be transferred to the St. Paul DPC, primarily to support CARS. The Office of Management and Budget (OMB) did not respond to our initial request; therefore, in light of current legislation, we have sent another request.

Our assessment is that little or no additional capacity exists beyond nationwide referral to the District Counsels. We will continue to monitor the CARS ADP system and add any revisions which can now be accommodated; however, any such enhancements will be quite small in nature. Without OMB approval for the hardware upgrade we will not be able to comply with the major aspects of the legislation (i.e., charging interest and the administrative cost of collection, credit bureau referrals, reactivation of terminated accounts, etc.).

We believe the General Accounting Office (GAO) has overlooked a major stumbling block in the debt collection process--the restriction on use of addresses obtained from the Internal Revenue Service (IRS). We now have over 54,000 accounts in CARS on which we can proceed no further because we are precluded from furnishing a credit report contractor with the correct address obtained from IRS. Legislation to remove the restrictions imposed in 1976 is both logical and timely, and should be addressed in this report. A proposal which includes a solution to this problem is pending in the Senate Committee on Finance. A recommendation from GAO concerning passage of the proposed bill would be in order. Obtaining IRS addresses at 11 cents per account versus whatever rate (estimated at \$1.60 to \$2.50) a credit bureau would charge, would result in considerable cost savings.

The following are our comments on the individual recommendations as they appear in the report. GAO recommends that I

- resume collection action on terminated educational assistance overpayment accounts using the collection methods discussed in this report;

On October 21, 1980, the Department of Justice gave us a delegation of authority to pursue collection of all debts up to \$1,200. Due to the limited capacity of the current hardware base, we are not able to resume collection activities on the approximately 720,000 terminated education accounts. As soon as possible, we intend to randomly select approximately 10,000 cases for reactivation. The collection success rate of these cases will be closely monitored in order to project the total estimated collections when adequate computer hardware is available.

- take steps to begin immediate reporting of delinquent and terminated accounts to commercial credit bureaus as soon as 38 U.S.C. 3301 is amended to eliminate any question as to VA's authority to disclose veterans' names, addresses, and other relevant data to such organizations;



We concur, but Public Law 96-466 requires that we publish regulations before implementing this authority. In addition, the VA must enter into contracts with at least six organizations. The contract negotiations will be carefully scrutinized as they will be the first such agreements entered into between any Government agency and a consumer reporting agency. Action on publishing the regulations and negotiating the contracts is underway. Present resources will not permit us to make the necessary changes in CARS to implement this new authority.

--execute a formal agreement with the Department of Justice which will give VA attorneys the authority to bring suit in any court of competent jurisdiction to recover any indebtedness that is owed to the United States by virtue of an individual's participation in VA benefit programs. The agreement should limit Justice supervision or intervention to those situations clearly warranted by the facts of the case (e.g., constitutional issues are involved, new precedents may be established, etc.);

We concur. Public Law 96-466, section 605, authorizes the VA to use its staff attorneys to bring suit to collect debts arising from all VA benefit programs. We have progressed in this area since completing an agreement with Department of Justice on October 21, 1980. When resources for this massive undertaking are available, we will proceed with a nationwide collection program for all debts of \$1,200 or less. We anticipate that the program for active cases in CARS will be fully operational by early 1981.

--expedite development of the means for and begin charging interest and recovering administrative collection costs on delinquent and terminated accounts, as well as current accounts being paid off on an installment basis;

The newly passed legislation requires charging interest and administrative costs on accounts receivable created as a result of benefits (other than loan guaranty) paid to veterans or eligible persons. This new authority should give veterans an incentive to resolve their debts to prevent interest from increasing the liability. We are developing necessary procedures to implement the full statutory change as soon as VA is granted permission to transfer the S360/65 computer from Austin to St. Paul.

--to the maximum extent practicable, require payment in full rather than repayment plans for debts disclosed when matching guaranteed home loan applications with educational assistance;

We support GAO's position but cannot concur in this recommendation since it does not take into consideration that eligibility standards for VA loans are established by statute. A veteran's entitlement to home loan benefits and VA's responsibility to provide the benefits are controlled by law. Any policy to withhold approval must be based on the veteran's failure to meet statutory eligibility requirements.

Therefore, we cannot summarily refuse to guarantee a loan on the grounds that the veteran has an outstanding education overpayment. All we can do is consider these debts when determining if an individual is a satisfactory credit risk. In making the determination, there must be some flexibility to avoid an interpretation denying the benefit to a person with Government indebtedness, regardless of creditworthiness.

In this vein, on May 25, 1980, the General Counsel recommended that the Chief Benefits Director adopt a policy permitting granting home loans despite existing education indebtedness if (1) the debt is reduced to an amount that can be repaid in one year; (2) a promissory note, including payment of costs and interest in the event of default, is obtained covering the entire amount of the debt; and (3) the veteran can reasonably be expected to repay both the education debt and the home loan, taking into consideration a demonstrated ability and willingness to make necessary payments, as well as other pertinent factors normally considered in determining credit risk. The Chief Benefits Director accepted these recommendations and necessary instructions were issued to field facilities. Of course, veterans who fail to honor the terms of a promissory note or to re-enter or remain in school will not escape since they will be subject to litigation by VA District Counsels under the Department of Justice delegation of authority.

—require commercial lenders to provide VA with veteran identification information on applicants for automatically guaranteed home loans so VA can check for indebtedness before the loans are closed. If indebtedness exists, the lender should be notified to withhold closing until the veteran pays the debt;

We do not agree with this recommendation. This proposed procedure was considered at length when policies for dealing with education-related indebtedness by prospective Government-insured loan borrowers were established. We believe that a lender's mandatory check with VA should not be required because the additional processing time could vitiate the advantages of the automatic loan program. The VA would have to develop more information than the mere fact that a debt exists, adding to the likelihood that automatic loan closings would be delayed pending VA's reply. Encouraging greater use of the automatic program by authorized mortgage lenders is an established policy since it permits more efficient use of VA's loan processing personnel and serves veterans' interests by reducing loan processing time. The fact that our current procedure could result in some debts not being collected is acknowledged but considered an acceptable risk when weighed against the need to promote automatic processing in the face of steadily diminishing personnel resources.

Our statistics show that for all veterans checked during the prior approval home loan process, only 1 in 11 is found to have an education indebtedness. Thus, the delay caused by VA's checking for the existence of a debt would penalize all prospective automatic loan recipients for the liabilities of a few.

We believe the absence of a requirement that automatic lenders check with VA for education indebtedness does not necessarily mean the opportunity for debt collection is lost. We have procedures to provide information on automatic loan borrowers to our Finance Service for use as a locator source. Although the debt payment incentive is not as great as in prior approval cases, it is likely that we can locate the veteran debtor since he/she will probably have moved into the purchased property. In addition, the fact that the veteran received the loan should attest to a healthy financial condition, and can be useful knowledge from a collection standpoint.

Finally, the recent legislation permits VA to release information on delinquent education-related indebtedness to credit bureaus. This will give lenders access to information through regular credit reporting channels, and they will be able to consider the impact of the indebtedness on the veteran's creditworthiness in a more efficient and less time-consuming manner than implementing this recommendation would permit.

- when possible, obtain debtor ability-to-pay information in a more economical manner, such as from commercial credit bureau reports;

Now that Public Law 96-466 has been enacted, we intend to obtain debtor ability-to-pay information from commercial credit bureaus in lieu of using investigative credit reports, also known as asset and income reports. It is possible that opposition to using the commercial credit bureau reports will be encountered from some U.S. Attorneys because consumer reports generally indicate a person's credit history, but not assets which may be subject to attachment.

- on a test basis, independently verify the accuracy of investigative credit report information;

We defer commenting on this recommendation since we intend to obtain debtor information from commercial credit bureaus. If it is determined that those reports are inadequate for litigation purposes, we will consider verifying the accuracy of asset and income reports.

- combine terminated and current overpayments of individual debtors so the full debt amount is pursued;

We concur and will make every effort to combine terminated and current overpayments of individual debtors so the full debt amount is identified and pursued.

- instruct VA regional offices to deduct outstanding overpayments from special benefit payments; and

We are not sure of the intent of this recommendation. Technically, a special payment cannot be used to liquidate an existing overpayment since

the special payment itself also creates a temporary overpayment. But if the recommendation means a special payment should not be made if it, combined with an existing overpayment, cannot be liquidated during the enrollment period, we concur. Section 605 of Public Law 96-466 authorizes the VA to offset any indebtedness of a veteran or eligible person against any other benefits which the VA may owe the individual (38 United States Code, section 3114). These offset provisions are essentially a codification of common law authority we now have and generally use. The new Law provisions expanding section 3114 are somewhat broader than our current procedures under the common law in that the new authority permits collection of all debts by offset from future payments under any VA-administered benefit. We are developing procedures to implement this broader authority.

The new Law provisions also resolve the problem of VA's continuing to administratively offset against other benefits owed the individual even though the Statute of Limitations bars suit in a court of law. The Comptroller General and the Department of Justice were at odds on this point. Since we have been operating under the theory that time limits applicable to judicial activities do not generally apply to administrative proceedings, we do not expect this provision to significantly affect our activities.

--implement a program to periodically match delinquent and terminated educational assistance overpayment accounts with computer listings of current Federal civilian and military personnel.

The Chapter 4 report section, "Legislation is Needed to Strengthen Collection From Federal Employees," states "...VA was planning a matching program to identify both VA and non-VA Federal employees who owe money to the Government...." This matching program is being conducted by the Office of the Inspector General and is beyond the "planning" stage. The proposed computer match report has been prepared and forwarded to OMB and the Congress, and the Federal Register notices have been published in compliance with OMB Computer Matching Guidelines. We have received the data file computer tapes from the Office of Personnel Management and the actual data matching is in process. We hope to begin collection efforts in December. Establishing a continuing periodic match will depend on the results of the initial match.

Another issue discussed in this report is whether the Privacy Act of 1974, 5 United States Code, section 55a, applies to a consumer reporting agency which obtains individually identifiable information from a Federal agency. In October, legislation was introduced (S. 3160, 96th Congress) to amend the Privacy Act to permit disclosing information to consumer reporting agencies. The legislation which the VA proposed, and which was recently signed into law, appears to have been a model for this proposal. The proposed legislation would affect all Federal agencies maintaining records subject to the Privacy Act and is designed to overcome legal obstacles which GAO believes do not exist.

We are concerned about the interchangeable references to "asset and income reports" and "investigative credit reports" in this report. The use of the latter term may confuse unknowing readers who assume it is the same as an "investigative consumer report" as defined in the Fair Credit Reporting Act. There are major legal and practical distinctions between an "asset and income report," which VA obtains for debt cases referred to the Department of Justice and GAO, and an "investigative consumer report." The Fair Credit Reporting Act imposes limits on the issuance of investigative consumer reports and the use of information they contain. We have never considered the asset and income reports to be subject to the terms of the Fair Credit Reporting Act, and believe that references to "investigative credit reports" should be changed to "asset and income reports."

Although we have some objections to portions of this report, we wish to express our appreciation for the assistance of GAO staff members in obtaining definitive authority--the enactment of Public Law 96-466--to collect debts owed the Veterans Administration.

Sincerely,

  
MAX O'LEAND  
Administrator



## U.S. Department of Justice

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Washington, D.C. 20530

NOV 12

Mr. William J. Anderson  
Director  
General Government Division  
United States General Accounting Office  
Washington, D.C. 20548

Dear Mr. Anderson:

This letter is in response to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "Legislation and More Aggressive Administrative Actions Are Needed to Strengthen Debt Collection Efforts Within VA."

The General Accounting Office (GAO) examined the effectiveness of the Veterans Administration's efforts in attempting to collect educational assistance overpayments and other debts from veterans. GAO suggests that certain corrective measures be adopted by administrative and legislative means so that the Veterans Administration can strengthen its debt collection efforts.

Page 27 of the report refers to the pilot program in which the Department agreed to delegate authority to the Veterans Administration to litigate educational assistance overpayment claims under \$600 in certain test cities. The report concludes that one of the main factors contributing to the slow start of the pilot program "was the difficulty encountered by VA in formulating an effective working relationship with Justice concerning litigation in Federal District Courts." The report also suggests that after the agreement between the Department and the Veterans Administration became effective, the U.S. Attorneys' offices delayed in reaching working agreements with local Veterans Administration district counsels. The Department takes strong exception to GAO's criticism of Justice's supervision of the pilot program.

Pursuant to the Memorandum of Understanding setting forth procedures for the conduct of the pilot program, the Veterans Administration was responsible for obtaining the concurrence of the local U.S. Attorney's office and for seeking advice of the U.S. Attorneys on utilization of state or Federal courts. In our view any delays in the commencement of this program were attributable to difficulties experienced by the Veterans Administration district counsels' offices in gearing up for the program. In certain instances, long delays ensued before the local Veterans Administration office even contacted the U.S. Attorney's office in that district for the purpose of establishing a working agreement for the litigation of these cases. We are not aware of

any instance in which a local U.S. Attorney's office delayed implementation of the program in that district or refused to cooperate with the Veterans Administration on any aspect of the agreement.

Among the legislative recommendations proposed by GAO is the execution of a formal agreement between the Veterans Administration and the Department delegating litigating authority to the Veterans Administration over the collection of debts owed the United States as a result of Veterans Administration benefit programs. Legislation on this matter is no longer necessary. As GAO is aware, Congress recently enacted legislation entitled "Veterans Rehabilitation and Education Amendments of 1980" (H.R. 5288) delegating litigation authority to the Veterans Administration in this area subject to the direction and supervision of the Attorney General. In any event, the Department and the Veterans Administration had voluntarily agreed to enter into a Memorandum of Understanding delegating litigation authority to the Veterans Administration to collect such debts up to \$1,200. This agreement became effective October 21, 1980.

Because of the findings criticizing the Department's supervision of the test program, GAO recommends restricting supervision of the Veterans Administration's litigation responsibilities by the Department to those situations involving constitutional issues, new precedents, etc. The Memorandum of Understanding authorizes the U.S. Attorneys to advise the Veterans Administration on the selection of the court to be utilized (state or Federal), and to place reasonable restrictions on the number of collection cases filed within that district. The Department has taken the position before the Congress and the Veterans Administration that, in view of the massive volume of these collection claims, we must be attuned to the potential impact of these cases on the judicial system and the particular courts which would be affected. For this reason, the U.S. Attorneys work closely with the U.S. District Court Judges in the orderly management of the cases filed in their courts. Granting unfettered authority to the Veterans Administration to file voluminous suits for small sums in the District Courts would further exasperate an already congested docket and create friction between the Executive departments and the Judiciary. In our view, such safeguards are consistent with the Department's traditional supervisory responsibilities concerning the conduct of litigation and with the language contained in Section 3116(a)(3) of H.R. 5288 that the activities of the Veterans Administration attorneys "shall be subject to the direction and supervision of the Attorney General of the United States and to such terms and conditions as the Attorney General may prescribe."


Other legislative proposals recommended by GAO are encompassed within the recently enacted "Veterans Rehabilitation and Education Amendments of 1980." These include authorizing the Veterans Administration to charge interest on past due accounts (Section 3115). GAO recommends amending 5 U.S.C. 5514(a) to permit involuntary collection of general Government debts from the current salary of Federal employees. A more limited version of this proposal is contained in Section 3114 of the "Veterans Rehabilitation and Education Amendments," which permits involuntary collection of debts owed to the Veterans Administration from future payments made to such persons under any

law administered by the Veterans Administration. We support the proposed amendment to Title 5 provided it includes necessary due process safeguards pertaining to the offset of prejudgment debts.

GAO also recommends legislation that would specify that the 6-year statute of limitations contained in 28 U.S.C. 2415 applies only to court action by the Government and does not prohibit administrative collection actions by Federal agencies such as offsetting uncollectible debts owed by Federal employees against their final salary payments or retirement benefits. A similar provision is contained in Section 3114(c) of the "Veterans Rehabilitation and Education Amendments," which authorizes offsets of debts owed by Federal employees against future payments to be made to such persons by the Veterans Administration beyond the 6-year statute of limitations contained in 28 U.S.C. 2415. If the proposed amendment allowing collection of debts from current salaries is enacted, this amendment, which would allow collection of any time-barred debt, is unnecessary. Debts could be collected in a timely manner before they become stale. Amending Section 2415 to allow the Federal Government to set off a time-barred debt from any payment due such person by the Government would have serious consequences. It would in effect repeal the statute of limitations as applied to the Government because most persons, at some point in their lives, are entitled to money from the Government. There are, of course, many sound policy reasons for requiring creditors, including the Federal Government, to press their claims at a time when the underlying events are recent and memories fresh. We especially object to legislation that eliminates the application of statute of limitations across the board rather than in a discrete category of cases.

We appreciate the opportunity to comment on the draft report. Should you desire any additional information, please feel free to contact me.

Sincerely,

  
Kevin D. Rooney  
Assistant Attorney General  
for Administration





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