

U.S. House of Representatives
Committee on Oversight and Government Reform
Darrell Issa (CA-49), Chairman



**Systemic Waste and Abuse at the Social Security Administration: How Rubber-
Stamping Disability Judges Cost Hundreds of Billions of Taxpayer Dollars**

STAFF REPORT
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Social Security Administration

Karen Ames

Director, Division of Quality Service, Office of Disability Adjudication and Review

Charlie Andrus

Hearing Office Chief ALJ (HOCALJ), Huntington, WV Hearing Office
October 31, 1997 to June 8, 2011

Mr. Andrus was the direct supervisor for ALJ David Daugherty.

Jasper Bede

Regional Chief ALJ for Region 3
2006 to present

As Regional Chief ALJ (RCALJ) for Region 3, Mr. Bede supervises 17 hearing offices and roughly 180 ALJs. Mr. Bede has served the Social Security Administration in various capacities since 1975. The Committee conducted a transcribed interview with RCALJ Bede on October 22, 2013.

Debra Bice

Chief ALJ
January 2011 to Present

As Chief ALJ (CALJ), Ms. Bice supervises 162 hearing offices and approximately 10,000 employees, including about 1,500 ALJs. Prior to serving as Chief ALJ, Ms. Bice was the Hearing Office CALJ in Kansas City, MO, for two years. She has served the Social Security Administration in various capacities from 1976 to 1995 and from 2000 to the present. Between 1995 and 2000, Ms. Bice worked as a disability claimant attorney. The Committee conducted a transcribed interview with Chief Judge Bice on May 13, 2014.

Charles Bridges

ALJ, Harrisburg, PA Hearing Office
May 2004 to Present

Mr. Bridges has served as an ALJ for 15 years, serving as HOCALJ of the Harrisburg, PA, Hearing Office from May 2004 until June 4, 2010. RCALJ Bede removed Mr. Bridges as Harrisburg's HOCALJ for improper conduct. Prior to serving as HOCALJ in Harrisburg, Mr. Bridges served as HOCALJ in Hartford, CT.

Theodore Burock

HOCALJ, Harrisburg, PA Hearing Office
September 2010 to present

Mr. Burock previously served as the HOCALJ for the Charleston, WV, Hearing Office, from January 2003 until September 2010. As Charleston's HOCALJ, he was the direct supervisor for ALJ Harry Taylor. He is now the direct supervisor for ALJ Charles Bridges.

Frank Cristaudo

Associate Chief ALJ
January 2011 to Present

Mr. Cristaudo was the CALJ between 2006 and 2010. Prior to serving as the CALJ, Mr. Cristaudo was the Regional CALJ for Region 3 between 1996 and 2006. He has served the Social Security Administration in various capacities for over twenty years. Prior to joining the Social Security Administration, Mr. Cristaudo worked as a disability claimant attorney. The Committee conducted a transcribed interview with Mr. Cristaudo on May 16, 2014.

David Daugherty

ALJ, Huntington, WV Hearing Office
1990 to June 2011

Lisa De Soto

Deputy Commissioner, Office of Disability Adjudication and Review
2006 to December 2008

Greg Hall

Hearing Office Director, Huntington, WV Hearing Office
1973 to August 2011

Harry Taylor

ALJ, Charleston, WV Hearing Office
1988 to Present

Mr. Taylor has served as an ALJ for over 25 years.

Private Sector

Eric C. Conn

Founder, The Conn Law Firm & Associates

Mr. Conn is a claimant representative in Stanville, Kentucky. Mr. Conn allegedly engaged in an inappropriate collusive effort with ALJ Daugherty to improperly award benefits to Mr. Conn's clients.

Executive Summary

The Social Security Administration (SSA) administers two large federal disability programs: the Social Security Disability Insurance program (SSDI) and the Supplemental Security Income program (SSI). There are currently about 19.4 million individuals receiving about \$200 billion in benefits through these two programs.¹ In addition to the direct cash benefit, individuals enrolled in SSDI for two years are automatically enrolled in Medicare.² Medicare currently spends about \$80 billion on SSDI beneficiaries.³ Moreover, individuals enrolled in SSI are automatically eligible for Medicaid.

When an individual applies for disability benefits, their case is initially adjudicated by examiners in a State Disability Determination Service (DDS) office.⁴ In 40 states plus most of California, an applicant may appeal to a different reviewer in the same office if they are denied benefits.⁵ If this second reviewer denies granting benefits, then the applicant can appeal to a Social Security Administrative Law Judge (ALJ). Therefore, a case typically only reaches an ALJ if it has already been denied twice. When an ALJ awards disability benefits, for all practical purposes, the decision is final, as awards are not appealable. If an ALJ denies benefits, the individual still has two levels of appeal for reconsideration—SSA’s Appeals Council and the federal courts.⁶

The average lifetime disability benefit, including the benefit from programs linked to enrollment in a disability program, is estimated at \$300,000.⁷ Therefore, ALJs have enormous spending authority, magnifying the consequences of any improper decision-making. If an ALJ improperly awards disability benefits to just 100 people, they increase the present value of federal spending by \$30 million. Between 2005 and 2013, ALJs placed over 3.2 million people on federal disability programs at a total cost of nearly one trillion dollars.

ALJs’ principal responsibilities are to issue policy-compliant decisions that cite sufficient evidence to warrant the decisions. In order to determine claimant credibility, ALJs are required to consider the entire case record, including objective medical evidence, statements and other information provided by treating or examining physicians, the individual’s own statements about symptoms, and any other relevant evidence in the case record or adduced at a claimant hearing.

¹See Social Security Administration, Social Security Online Beneficiary Data, *available at* <http://www.socialsecurity.gov/cgi-bin/currentpay.cgi>, *see also* Social Security Administration Research, Statistics, & Policy Analysis, Monthly Statistical Snapshot, April, 2014 *available at* http://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/#table2.

²Social Security Administration, “Disability Planner: Medicare Coverage If You’re Disabled.” *available at* <http://www.socialsecurity.gov/dibplan/dapproval4.htm>.

³Congressional Budget Office: CBO Testifies on the Social Security Disability Insurance Program, *available at* <http://www.cbo.gov/publication/43996>.

⁴20 C.F.R. § 416.1015.

⁵20 C.F.R. § 416.1407.

⁶20 C.F.R. § 1423, 20 C.F.R. § 416.1467.

⁷DAVID H. AUTOR & MARK DUGGAN, SUPPORTING WORK: A PROPOSAL FOR MODERNIZING THE U.S. DISABILITY INSURANCE SYSTEM 8 n.10 (2010), *available at* <http://www.americanprogress.org/wp-content/uploads/issues/2010/12/pdf/autordugganpaper.pdf>.

Frank Cristaudo, SSA's Chief ALJ from 2006 through 2010, testified that ALJs do not have discretion to ignore relevant evidence in an applicant's file.⁸

During a June 27, 2013, hearing of the Oversight and Government Reform Subcommittee on Energy Policy, Health Care and Entitlements, two former SSA ALJs and two current SSA ALJs testified about their concerns of the agency's stewardship of disability programs.⁹ Former SSA ALJ J.E. Sullivan testified that speedy decision-making and high volume dispositions were the agency's **exclusive** focus during her time as an agency employee.¹⁰ According to many other ALJs, the agency prioritized speed of processing cases over accuracy, resulting in many ALJs awarding benefits to claimants who do not meet program requirements, since allowances are much easier to issue than denials, and allowances, unlike denials, are not appealed.¹¹

Prior to the publication of ALJ disposition data for the first time in 2010 and critical reporting by the *Wall Street Journal* in 2011¹², the agency made no effort to monitor whether its ALJs were considering the entire case record and making policy-compliant decisions. Among its many stewardship failures, the agency failed to use ALJ allowance rates or total number of dispositions as an indication of whether an ALJ was properly evaluating evidence.¹³ The agency even failed to monitor whether ALJs were appropriately awarding benefits when ALJs awarded benefits without holding hearings. Instead, it appears that the only metric used by the agency to evaluate ALJs was the number of cases processed by an ALJ in a given time period.

As a result of the agency's emphasis on high volume adjudications over quality decision-making, the credibility of the disability appeals process has been eroded. Genuinely disabled individuals are harmed from the programs' explosive growth and face large future benefit cuts as the SSDI trust fund is scheduled for bankruptcy in two years¹⁴ because the program has too many beneficiaries who do not meet the disability programs' requirements. Moreover, the tens of millions of Americans who pay taxes to finance federal disability programs have seen their hard-earned tax dollars squandered because of the agency mismanagement that potentially has led to hundreds of billions of dollars of improper payments.

Although ALJs only review cases for claimants who had been previously denied for benefits, typically twice, the national ALJ allowance rate exceeded 70 percent prior to 2010.¹⁵

⁸ See transcribed interview with former CALJ Frank Cristaudo at 9 (May 16, 2013).

⁹ *Oversight of Rising Social Security Disability Claims and the Role of Administrative Law Judges Before the Subcomm. on Energy Policy, Health Care and Entitlements of the H. Comm. on Oversight and Government Reform*, 113th Cong. (June 27, 2013).

¹⁰ *Oversight of Rising Social Security Disability Claims and the Role of Administrative Law Judges Before the Subcomm. on Energy Policy, Health Care and Entitlements of the H. Comm. on Oversight and Government Reform*, 113th Cong. (June 27, 2013) (testimony of ALJ J.E. Sullivan).

¹¹ *Id.*

¹² Damian Paletta, *Disability-Claim Judge Has Trouble Saying 'No'*, WALL ST. J., May 19, 2011, <http://online.wsj.com/news/articles/SB10001424052748704681904576319163605918524>.

¹³ See *supra* note 8 at 124.

¹⁴ The Congressional Budget Office, *2012 Long-Term Projections for Social Security: Additional Information*, October 2012.

¹⁵ Publicly available ALJ adjudication data as well as ALJ adjudication data provided by the Social Security Administration available at http://www.oregonlive.com/special/index.ssf/2008/12/social_security_database.html and http://www.socialsecurity.gov/appeals/DataSets/archive/archive_data_reports.html.

Between 2005 and 2013, more than 1.3 million individuals were placed on a federal disability program (at a total cost of nearly \$400 billion) by ALJs with an allowance rate in excess of 75 percent in the year that individual was awarded benefits.¹⁶ Tellingly, the national allowance rate has fallen after the agency *finally* made ALJ allowance data public in 2010 and the agency received criticism from Congress and the media.

The agency ignored ALJ allowance rates and disposition totals despite widespread recognition within the agency that ALJs cannot properly evaluate the evidence if they are deciding too many cases. For example, Jasper Bede, a Regional Chief ALJ (RCALJ) for SSA, testified that allowance rates in excess of 75 percent or 80 percent raise a “red flag” about the quality of ALJs’ decisions.¹⁷ RCALJ Bede also testified that “it was generally felt that anything over 700 [dispositions] brought into question whether or not the judge was properly handling cases” and that “[i]f you’re well over 700 [dispositions], you know, if you’re doing 1,000, and I think that’s almost *prima facie* evidence that you’re not doing a good job and you should be looked at.”¹⁸ A 2012 SSA internal report confirmed a “strong relationship between production levels and decision quality on allowances. As ALJ production increases, the general trend for decision quality is to go down.”¹⁹ A Committee analysis of 30 internal agency reviews of high allowance ALJs reveals troubling patterns with the manner in which high allowance ALJs decide cases.²⁰

The Committee has obtained detailed information on the actions of three ALJs: ALJ Charles Bridges, former ALJ David Daugherty, and ALJ Harry Taylor, who have been inappropriately awarding disability benefits for years. These ALJs awarded benefits in nearly every decision they made, issued an extremely large number of allowances without holding a hearing, and were subject to numerous complaints from employees within their offices. In addition to discussing the agency’s poor management and stewardship of federal disability programs, this staff report presents case studies for each of these ALJs. In total, over the last decade alone, these three ALJs awarded lifetime benefits amounting to nearly \$10 billion, and two of them are still deciding a full load of cases.

ALJ Charles Bridges

Charles Bridges has served as a SSA ALJ for 15 years, and was Hearing Office Chief ALJ (HOCALJ) of the Harrisburg, Pennsylvania office from May 2004 to June 2010. From 2005 to 2013, ALJ Bridges had an overall allowance rate exceeding 95 percent, and he awarded benefits in cases without holding a hearing nearly 7,000 times.²¹ In the last eight years, ALJ

¹⁶ *Id.*

¹⁷ Transcribed interview with RCALJ Jasper Bede at 75 (Oct. 22, 2013). Defined by Mr. Bede as “certainly anything over ... 75 or 80 percent. Several years ago, that might have been [defined as] 85 percent, when everyone, as a whole, nationally and regionally, were reversing cases in the 65 percent range.”

¹⁸ *Id.*

¹⁹ Social Security Administration Memo on Production Levels and Decision Quality (Sept. 7, 2012) [Request 4 – 00001-5].

²⁰ Committee staff analysis of focused reviews of ALJs provided by the Social Security Administration on Jan. 17, 2014 and May 9, 2014.

²¹ See *supra* note 15.

Bridges awarded benefits to 15,787 individuals at a total cost to taxpayers of approximately \$4.5 billion.²²

In 2007, complaints from colleagues and supervisors about his high production and low quality work led SSA to commission three separate reports, all of which revealed serious problems with ALJ Bridges as an ALJ and as a manager of the Harrisburg hearing office. Despite the reports' negative findings, ALJ Bridges was never disciplined and remained in his leadership role as HOCALJ for another two years. In 2013, another review of ALJ Bridges' work found that 60 percent of a sample of ALJ Bridges' decisions were not supported by substantial evidence and contained no specific findings regarding the claimant's credibility or the weight of the opinion evidence.²³ ALJ Bridges has not yet been disciplined and still decides a full case load for the agency.

ALJ David Daugherty

David Daugherty served as a SSA ALJ for over 20 years. From 2005 to his retirement in mid-2011, ALJ Daugherty awarded disability benefits to 8,413 individuals, the equivalent of approximately \$2.5 billion in federal lifetime benefits.²⁴ ALJ Daugherty had the seventh highest allowance rate in the country between 2005 and 2011, awarding benefits in nearly 99 percent of his decisions.²⁵ Of his decisions in this period, roughly half were allowances made without a hearing.²⁶

Allegations of Daugherty's misconduct were ignored by SSA management for decades. ALJ Daugherty violated time and attendance policies, conducted sham hearings, rarely questioned vocational experts, and colluded with a claimant representative to award benefits in **all** the representative's cases.²⁷ The agency failed to take any disciplinary action, or even investigate wrongdoing until after a *Wall Street Journal* article exposed ALJ Daugherty's long-running scheme with the claimant representative. Daugherty resigned, but he has not yet been held accountable for his alleged crimes. ALJ Daugherty continues to collect full federal retirement benefits.

ALJ Harry Taylor

Harry Taylor has served as a SSA ALJ for over 25 years. Between 2005 and 2013, ALJ Taylor awarded disability benefits to 8,227 individuals, the equivalent of approximately \$2.5 billion in federal lifetime benefits.²⁸ During this period, ALJ Taylor had an overall allowance rate of nearly 94 percent and allowed 68 percent of his decisions without holding a hearing.²⁹ A

²² *Id.*

²³ Fiscal Year 2013 Focused Review of Charles Bridges (Jan. 15, 2014) [Request 1 – 000109].

²⁴ *See supra* note 15.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *See* STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, 113TH CONG., HOW SOME LEGAL, MEDICAL, AND JUDICIAL PROFESSIONALS ABUSED SOCIAL SECURITY DISABILITY PROGRAMS FOR THE COUNTRY'S MOST VULNERABLE: A CASE STUDY OF THE CONN LAW FIRM (Oct. 7, 2013).

²⁸ *See supra* note 15.

²⁹ *Id.*

2013 review showed that ALJ Taylor dismissed state DDS findings without proper analysis and that the majority of his cases contained opinions and assessments from medical experts that were inconsistent with his findings of disability.³⁰

At least since 2007, ALJ Taylor's colleagues and local management expressed concerns about his personal conduct, and RCALJ Bede testified that ALJ Taylor does "sloppy work."³¹ In addition to multiple allegations of personal misconduct, ALJ Taylor slept at work *and during hearings* many times.³² Four years after the first documented allegation that ALJ Taylor was sleeping at work, he was finally disciplined with a 14-day suspension.³³ However, ALJ Taylor continued to violate agency policies, and was recommended for another suspension in April 2013.³⁴ More than a year later, the recommendation for his suspension is still pending and ALJ Taylor continues to decide a full load of cases.

³⁰ Focused Review of ALJ Harry Taylor (May 15, 2013) [Request 1 – 000033].

³¹ *See supra* note 17 at 133.

³² Memorandum from HOCALJ Theodore Burock to ALJ Harry Taylor (Aug. 2008) [Request 4 – 001568].

³³ Settlement agreement between SSA and ALJ Harry Taylor (May 11, 2011) [Request 4 – 009436].

³⁴ Letter from RCALJ Jasper Bede to CALJ Debra Bice (April 19, 2013) [Request 4 – 004596].

Findings

- Between 2005 and 2013, SSA ALJs issued about 4.9 million decisions, awarding benefits to approximately 3.2 million claimants. The overall allowance rate for ALJs between 2005 and 2013 was 65.8 percent, a seemingly excessive rate since ALJs are only deciding cases for claimants who had been denied, generally twice, in previous agency reviews.
- Jasper Bede, a Regional Chief Administrative Law Judge for the agency, testified that when ALJs allow benefits at a high rate, which he defined as over “75 or 80 percent,” “it raises a red flag” about the quality of their decisions. Between 2005 and 2009, over 40 percent of ALJs had allowance rates in excess of 75 percent and over 20 percent of ALJs had allowance rates in excess of 85 percent.
- Between 2005 and 2013, over 1.3 million people were placed on the program by ALJs with an annual allowance rate in excess of 75 percent and over 650,000 people were placed on the program by an ALJ with an annual allowance rate in excess of 85 percent.
- The agency failed to assess the quality of the decisions of ALJs with high disposition totals despite widespread recognition within the agency that ALJs cannot properly evaluate the evidence if they are deciding too many cases.
- The agency failed to assess the quality of the decisions of ALJs with high allowance rates, including ALJs who were allowing a large number of decisions without hearings.
- From 2005 to 2013, ALJ Charles Bridges had an overall allowance rate of over 95 percent. During this period, he awarded benefits to 15,787 individuals, equaling approximately \$4.5 billion in lifetime benefits. In addition, he awarded benefits 6,983 times without holding a hearing.
 - A 2013 internal review of a sample of ALJ Bridges’ decisions found that 60 percent were not supported by substantial evidence.
 - One law firm created a “Bridges Policy,” in which the firm accepted any individual as a client if their case was assigned to ALJ Bridges, regardless of the evidence. An internal review noted that “This policy appropriately illuminates Judge Bridges’ alarming pay-rate despite underdevelopment of the record and general lack of support for his findings, as determined in this study.”
 - ALJ Bridges improperly rotated cases in the hearing office so that he could decide more cases. In response to an OIG report with these findings, Chief ALJ Frank Cristaudo wrote “I don’t see a lot in the attached report that evidences much more than an ALJ who puts in incredible hours and is very efficient.”
 - ALJ Bridges bragged in hearings and in interviews with news organizations about his hearing office’s high ranking for number of dispositions, and awarded a trophy each month to the ALJ with the highest dispositions.

- One disability decision writer in ALJ Bridges' office described ALJ Bridges as an "embarrassment" and another said she is "not proud of what she does" in writing his decisions.
- From 2005 to his retirement in mid-2011, ALJ David Daugherty had an overall allowance rate of nearly 99 percent. During this period, he awarded benefits to 8,413 individuals, equaling approximately \$2.5 billion in lifetime benefits. During this period, he awarded benefits 4,184 times without holding a hearing.
 - A 2011 internal review showed that out of a random sample of 128 decisions, ALJ Daugherty only held one hearing that lasted longer than five minutes. The review also found that the same four paragraphs were generally cut and pasted into every decision.
 - For decades, colleagues and supervisors complained about ALJ Daugherty's office behavior and the quality of his judicial decision-making. Complaints included violating time and attendance policies, conducting sham hearings, rarely questioning vocational experts, and colluding with a claimant representative to award benefits in all the representative's cases.
 - The agency failed to take any disciplinary action against ALJ Daugherty until a *Wall Street Journal* article was written about ALJ Daugherty's long-running scheme with the claimant representative.
- From 2005 to 2013, ALJ Harry Taylor had an overall allowance rate of nearly 94 percent. During this period, he awarded benefits to 8,227 individuals, equaling approximately \$2.5 billion in lifetime benefits. During this period, he awarded benefits 5,982 times without holding a hearing.
 - A 2013 internal review of a sample of ALJ Taylor's decisions showed that he dismissed initial state determinations without proper analysis and that the majority of his cases contained opinions and assessments from medical experts that were inconsistent with his findings of disability.
 - For years, ALJ Taylor's colleagues and local management reported that ALJ Taylor repeatedly slept at the office and during claimant hearings. No disciplinary action was taken against ALJ Taylor until May 2011, four years after the first documented allegation that ALJ Taylor was inappropriately sleeping on the job.
 - ALJ Taylor continues to violate agency policies, and was recommended for another suspension in April 2013. More than a year later, this recommendation is still pending and ALJ Taylor continues to decide a full load of cases.

I. Hundreds of SSA ALJs Awarded Disability Benefits to the Vast Majority of Claimants over the Past Decade

The Social Security Administration (SSA) administers two large federal disability programs: the Social Security Disability Insurance program (SSDI) and the Supplemental Security Income program (SSI). SSDI is the federal disability program for adults under age 65 who meet work and payroll tax contribution requirements and for their dependents. SSI is the federal disability program for children under age 18 and adults aged 18 to 64 who meet specified income and asset requirements and who lack significant work history.³⁵

Over the past 25 years, the number of disabled workers enrolled in SSDI has grown by 6.1 million people, from 2.8 million to over 8.9 million people.³⁶ As a result of this growth, there are now 6.2 disabled workers on SSDI for every 100 workers in the United States, compared to 2.4 disabled workers on SSDI for every 100 workers 25 years ago.³⁷ In addition to disabled workers, about 2.1 million spouses and children of disabled workers also receive SSDI benefits.³⁸

As the number of individuals enrolled in SSDI has increased, so has program spending, which amounted to more than \$143 billion in 2013.³⁹ A decade ago, SSDI payroll tax revenue exceeded program outlays by 17 percent, but this year, program spending will be 30 percent more than dedicated payroll tax revenue.⁴⁰ The Social Security Board of Trustees⁴¹ and the Congressional Budget Office⁴² estimate that, without reform, the SSDI trust fund will be depleted in 2016. Growth in SSDI enrollment also increases Medicare spending since individuals enrolled in SSDI for two years are automatically enrolled in Medicare.⁴³ The Medicare program spent \$80 billion on SSDI beneficiaries in 2012.⁴⁴

³⁵ Social Security Administration document, Supplemental Security Income (SSI), *available at* <http://www.ssa.gov/pubs/EN-05-11000.pdf>

³⁶ Social Security Administration, Social Security Online Beneficiary Data, *available at* <http://www.socialsecurity.gov/cgi-bin/currentpay.cgi>. At the end of 1988, 2,830,284 people were enrolled in SSDI as a disabled worker. At the end of 2013, this number reached 8,942,584.

³⁷ *Id.*, and Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, *available at* <http://www.bls.gov/cps/cpsaat01.htm>. There were 116,104,000 workers at the end of 1988 and 143,929,000 workers at the end of 2013.

³⁸ Social Security Administration Research, Statistics, & Policy Analysis, Monthly Statistical Snapshot, April, 2014 *available at* http://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/#table2.

³⁹ Social Security Administration, Data on Disability Insurance Trust Fund, 1957-2013, *available at* <http://www.ssa.gov/oact/STATS/table4a2.html>

⁴⁰ Social Security Administration, Data on DI Receipts and Expenditures, *available at* <http://www.ssa.gov/oact/STATS/table4a3.html>.

⁴¹ Social Security Administration, “2012 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds,” *available at* <http://www.ssa.gov/oact/TRSUM/index.html>.

⁴² The Congressional Budget Office, *2012 Long-Term Projections for Social Security: Additional Information*, October 2012.

⁴³ Social Security Administration, “Disability Planner: Medicare Coverage If You’re Disabled.” *available at* <http://www.socialsecurity.gov/dibplan/dapproval4.htm>.

⁴⁴ Congressional Budget Office: CBO Testifies on the Social Security Disability Insurance Program, *available at* <http://www.cbo.gov/publication/43996>

Currently, 8.4 million people are enrolled in SSI,⁴⁵ at a cost to the federal government of nearly \$56.5 billion in 2013.⁴⁶ The number of participants in SSI has nearly doubled over the last 25 years.⁴⁷ Growth in SSI enrollment also increases Medicaid spending since individuals enrolled in SSI are automatically eligible for Medicaid.

Once individuals are enrolled in a federal disability program, they almost never go back to work. Less than one percent of those who were on SSDI at the beginning of 2011 have returned to the workforce.⁴⁸

Concerns with federal disability programs have been the subject of several critical media stories recently, including a *60 Minutes* segment last year. While *60 Minutes* focused on problems in the Huntington, West Virginia disability office, SSA ALJ Marilyn Zahm, the Vice President of the Association of Administrative Law Judges, stated on the program that “if the American public knew what was going on in our system, half would be outraged and the other half would apply for benefits.”⁴⁹ [emphasis added] For the last year-and-a-half, the Committee on Oversight and Government Reform has conducted extensive oversight into the widespread problems with the management of the federal disability programs, particularly problems within the disability appeals process.

Numerous current and former SSA ALJs support ALJ Zahm’s view that there are serious problems in the disability appeals process. For example, during a Subcommittee hearing on June 27, 2013, two former SSA ALJs and two current SSA ALJs testified about their concerns.⁵⁰ Former SSA ALJ J.E. Sullivan testified:

A judge’s production, or “making goal” is SSA management’s singular and exclusive focus in its administration and oversight of SSA’s disability hearings process. For SSA management, “making goal” is more important than the adjudicatory process, the quality of a judge’s work, and any considerations in making that decision.

Instead of managing a meaningful Federal adjudication program, SSA management has substituted a factory-type production process. Judging is not a factory work process, but SSA has taken that approach for speed and high volume results. As a result, SSA management can present to Congress and the American

⁴⁵ See *supra* note 4 at Table 3.

⁴⁶ Social Security Administration, Supplemental Security Income Program Fiscal Year 2015 Budget Justification, available at <http://www.ssa.gov/budget/FY15Files/2015SSI.pdf>.

⁴⁷ See Annual Report of the Supplemental Security Income Program at Table IV.B9 at 43, available at <http://www.ssa.gov/oact/ssir/SSI13/ssi2013.pdf>.

⁴⁸ Chana Joffe-Walt, *Unfit for Work: The Startling Rise of Disability in America* (2013), available at <http://apps.npr.org/unfit-for-work/>.

⁴⁹ Disability, USA, *60 Minutes*, (CBS News television broadcast Oct. 6, 2013), available at http://www.cbsnews.com/2102-18560_162-57606233.html (last visited Nov. 1, 2013).

⁵⁰ *Oversight of Rising Social Security Disability Claims and the Role of Administrative Law Judges Before the Subcomm. on Energy Policy, Health Care and Entitlements of the H. Comm. on Oversight and Government Reform*, 113th Cong. (June 27, 2013).

people with some impressive production statistics, but these statistics have been achieved by causing incalculable damage to the adjudication process at SSA.⁵¹

For a variety of reasons, ALJs have a greater incentive to award benefits than to deny benefits. First, ALJs have historically been subject to greater agency scrutiny when they deny benefits, since denials are often appealed and approvals of benefits are never appealed. Second, SSA OIG has found that since ALJs are required to fully document denial decisions, they are usually longer than approval decisions.⁵² According to ALJ Zahm, “because not as much rationale is needed, because the cases are not appealed, because the decision is quick, because the drafting of the decision is quick, it’s just a whole lot easier [to issue approvals than denials].”⁵³

Former SSA ALJ Drew Swank, in a law review article and in testimony before Congress,⁵⁴ agreed with ALJ Sullivan’s sentiments that the agency’s central focus on deciding cases quickly corrupted due process and quality decision-making:

[T]he Social Security Administration leadership, being most concerned about the ever-growing backlog of disability cases, has prioritized the speed of processing cases over accuracy. It has become increasingly clear the Social Security disability programs, instead of only awarding benefits to adults who are unable to work, is granting benefits to those who can work—effectively giving away money for nothing.

...

As long as eliminating the hearing backlog is the single, overriding concern of the Agency, Social Security disability programs will continue awarding money for nothing.⁵⁵

Accurate disability determinations are crucial given that the lifetime value of federal benefits per program beneficiary, including benefits in programs linked to disability program participation, is an estimated \$300,000.⁵⁶ Moreover, each individual inappropriately awarded benefits raises the likelihood that deserving claimants will see their benefits cut when the trust fund is bankrupt.

⁵¹ *Oversight of Rising Social Security Disability Claims and the Role of Administrative Law Judges Before the Subcomm. on Energy Policy, Health Care and Entitlements of the H. Comm. on Oversight and Government Reform*, 113th Cong. (June 27, 2013) (testimony of ALJ J.E. Sullivan).

⁵² E-mail from OIG to Committee Staff (May 22, 2014).

⁵³ *Easier to approve a disability case than deny it?*, Interview with Marilyn Zahm, CBS NEWS (October 6, 2013), available at <http://www.cbsnews.com/videos/easier-to-approve-a-disability-case-than-deny-it/>.

⁵⁴ Judge Drew A. Swank, *Money For Nothing: Five Small Steps to Begin the Long Journey of Restoring Integrity to the Social Security Administration’s Disability Programs*, 144 HOFSTRA L. REV. 155 (2012) (submitted testimony for hearing in *supra* note 16).

⁵⁵ *Id.* at 158, 179.

⁵⁶ DAVID H. AUTOR & MARK DUGGAN, SUPPORTING WORK: A PROPOSAL FOR MODERNIZING THE U.S. DISABILITY INSURANCE SYSTEM 8 n.10 (2010), available at <http://www.americanprogress.org/wp-content/uploads/issues/2010/12/pdf/autordugganpaper.pdf>.

When a claimant applies for disability benefits, their case is initially decided by examiners in a State Disability Determination Service (DDS) office.⁵⁷ In 40 states plus most of California, an applicant may appeal to a different reviewer in the same office if they are denied benefits.⁵⁸ Therefore, cases typically only reach an ALJ after the State DDS denies a case twice. When an ALJ awards disability benefits for an individual, for all practical purposes, the decision is final, and allowances are not appealed. If an ALJ denies benefits, the individual still has two levels of appeal for reconsideration – the Appeals Council and the federal courts.⁵⁹

While SSA ALJs perform some similar functions as an Article III federal judge, ALJs are employees of the executive and not the judicial branch and do not enjoy the same privileges as federal judges. Unlike Article III judges who are appointed for life under the Appointments Clause,⁶⁰ ALJs are hired by executive officials, and are subject to discipline and removal within the executive branch. While decisions made by an Article III judge can only be reversed within the federal appeals process, an agency can reverse an ALJ’s decision in its totality.⁶¹

Given that allowances awarded by ALJs are generally final decisions, the vast majority of individuals who receive benefits never return to the workforce, and because of the substantial value of lifetime benefits, ALJs have enormous spending authority. This enormous spending authority magnifies the consequences of improper decision-making. For example, ALJs who improperly award benefits, on net, to 100 people increase the present value of federal spending by approximately \$30 million.

Although a case only reaches an ALJ after it has been denied (often twice), hundreds of ALJs routinely allowed more than 80 percent of DDS denials, with more than 100 ALJs routinely allowing more than 90 percent of DDS denials each year over the last decade. During a transcribed interview with the Committee, Jasper Bede, a Regional Chief Administrative Law Judge (RCALJ) for the agency, testified that when ALJs have a high allowance rate,⁶² which he defined as over “75 or 80 percent,” “it raises a red flag” about the quality of their decisions.⁶³

According to Richard Pierce, a George Washington University law professor who has studied administrative law for 35 years and is an expert on the Social Security disability process, the primary cause of “an increasingly and unsustainably generous rate of granting disability benefits” is that “ALJs, on average, have granted benefits to many applicants with less severe mental illness or pain than ALJs considered sufficient to qualify for disability benefits in the recent past.”⁶⁴

⁵⁷ 20 C.F.R. § 416.1015.

⁵⁸ 20 C.F.R. § 416.1407

⁵⁹ 20 C.F.R. § 1423, 20 C.F.R. §416.1467

⁶⁰ U.S. CONST. art. II, § 2, cl. 2.

⁶¹ See 5 U.S.C. § 557(b) (2006) (“On appeal from or review of the [ALJ’s] initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.”).

⁶² An allowance is when an ALJ overturns the denial decision of a state DDS and allows an individual onto a disability program. Synonymous with allowance are the terms “approval” , “award”, or “reversal.”.

⁶³ See *supra* note 17 at 75.

⁶⁴ *Securing the Future of the Disability Insurance Program Before the Subcomm. on Social Security of the H. Comm. on Ways and Means*, 112th Cong. (June 27, 2012)(Statement of Richard J. Pierce, Jr.).

Table 1: Individuals Placed on Disability by ALJs with High Allowance Rates

ALJ Allowance Rate In Excess Of	Decisions	Allowances	On-The-Record Allowances	Total Spending on Allowances
75%	1,545,697	1,312,096	327,095	\$394 Billion
80%	1,094,936	962,868	261,697	\$289 Billion
85%	699,373	637,115	195,350	\$191 Billion
90%	379,819	357,878	127,977	\$107 Billion
95%	156,672	151,908	62,738	\$46 Billion

Note: The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJ decision data from between fiscal year 2005 and fiscal year 2013. On-the-record allowances are allowances made without a hearing. Total spending on allowances was estimated by multiplying the number of allowances and \$300,000 – the estimated total federal government expenditure of an individual gaining eligibility for a federal disability program. The values in each row represent the number of decisions, allowances, and on-the-record allowances in a given fiscal year issued by an ALJ with an allowance rate in excess of the allowance rate in the first column in that fiscal year.

Table 1 shows the number of individuals placed on SSDI or SSI between 2005 and 2013 by an ALJ with a high annual allowance rate.⁶⁵ According to Table 1, between 2005 and 2013, more than 1.3 million individuals were placed on a federal disability program by an ALJ who had an allowance rate in excess of 75 percent in the year those individuals were awarded benefits. The cost to the federal government of these 1.3 million allowances is nearly \$400 billion. For the purpose of this report, the Committee calculated allowance rates by excluding dismissals issued by ALJs, which is identical to the way the agency currently calculates allowance rates.⁶⁶

Table 1 also shows the number of individuals placed on the disability program and the number of individuals awarded benefits without a hearing (on-the-record allowances), by an ALJ with annual allowance rates in excess of 80 percent, 85 percent, 90 percent, and 95 percent.⁶⁷ Between 2005 and 2009, more than 40 percent of ALJs allowed at least 75 percent of their decisions, more than a fifth of ALJs allowed at least 85 percent of their decisions, and about six percent of ALJs allowed at least 95 percent of their decisions.⁶⁸ While an extraordinary number of ALJs were allowing the vast majority of their decisions, there were only a few ALJs disallowing the vast majority of their decisions. For example, between 2007 and 2010, only 0.5 percent of ALJs allowed less than 20 percent of their decisions.⁶⁹

Table 7 and Table 8, in the appendix, show the decisions and allowances for ALJs with an *overall* allowance rate in excess of 85 percent between 2005 and 2013. Table 7 is sorted by allowance rate, and Table 8 is sorted by ALJ last name. These tables exclude ALJs with less than 150 decisions during this time period. Overall, there were 191 ALJs who had a *total* allowance rate in excess of 85 percent during this time period. These 191 ALJs awarded more than \$150 billion in lifetime benefits between 2005 and 2013. As an indication of the

⁶⁵ See *supra* note 15.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

disproportionate nature of the problem, only one ALJ had a *total* allowance rate below 15 percent between 2005 and 2013, and that ALJ has not decided any cases since 2008.

The national adjudication data suggests a large scale problem. However, because of specific allegations made at the Committee's June 2013 hearing, the Committee's initial oversight work focused on Region 3, the region made up of 18 hearing offices located in Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia. The three ALJs in Region 3 who allowed the greatest number of individuals onto SSDI and SSI between 2005 and 2013 were ALJ Charles Bridges, ALJ David Daugherty, and ALJ Harry Taylor. With their high allowance rates and excessive number of decisions, between 2005 and 2013 alone, ALJ Bridges, ALJ Daugherty, and ALJ Taylor committed the federal government to approximately \$9.5 billion in present and future spending.

This report presents three case studies focusing on ALJ Bridges, ALJ Daugherty, and ALJ Taylor. On its face, the adjudication data of these three judges – extremely high disposition numbers, allowance rates, and favorable decisions without hearings – indicates that these ALJs were not following SSA rules about properly considering all the evidence in an applicant's file and conducting meaningful hearings. Former Commissioner Astrue has stated that ALJs producing an extremely large case load “invariably means the quality of the review is low or nonexistent.”⁷⁰ In essence, these judges rubber stamped nearly every claimant before them for a lifetime of benefits at taxpayer expense.

In addition to the extremely troubling disposition data, there were long-standing concerns with each of these ALJs regarding their conduct in hearings and in the hearing office, as well as numerous complaints from other employees. For each of these three ALJs, the agency took virtually no action and allowed their behavior to go unpunished, wasting billions of taxpayer dollars and inflicting untold human damage in the process. The failure of the agency to take appropriate action with any of these three ALJs raises serious questions about its stewardship of federal disability programs. SSA's decision to emphasize the rate at which decisions were processed, while paying virtually no attention to the quality of those decisions, further exacerbates the problem. It is important to realize that these three ALJs only represent the three ALJs with the *most* skewed adjudication data in only one of the nation's ten regions.

II. Case Study of ALJ Charles Bridges

ALJ Bridges served as Hearing Office Chief ALJ (HOCALJ) for the Harrisburg, Pennsylvania, hearing office from June 2, 2004 to June 4, 2010.⁷¹ As HOCALJ, ALJ Bridges had the responsibility to rotate cases so that every ALJ within his office received proportional numbers and types of cases.⁷² He was also responsible for overseeing other ALJs and was expected to decide a full load of cases in addition to his managerial duties.⁷³ ALJ Bridges was

⁷⁰ Brent Walth and Bryan Denson, *Paying out billions, one judge attracts criticism*, The Oregonian (Dec. 30, 2008) available at http://www.oregonlive.com/special/index.ssf/2008/12/paying_out_billions_one_judge.html.

⁷¹ Email from RCALJ Jasper Bede to Region 3 Staff (June 7, 2010) [Request 4 – 008360].

⁷² HALLEX I-2-0-5 A.

⁷³ *Id.*

appointed to this post by Frank Cristaudo, the former Chief ALJ (CALJ).⁷⁴ Table 2 shows the adjudication data of ALJ Bridges from 2005-2013. The data shows that ALJ Bridges allowed benefits in over 95 percent of his decisions, and awarded benefits without holding a hearing (on-the-record decisions) in nearly 7,000 cases since 2005.

Table 2: ALJ Bridges’ Adjudication Data, 2005-2013

Fiscal Year	Decisions	Allowance	On-the-Record Allowances	Allowance Rate
2005	2,168	2,088	1,347	96.3%
2006	2,374	2,310	1,433	97.3%
2007	2,368	2,285	1,340	96.5%
2008	2,122	2,019	1,072	95.1%
2009	2,093	1,988	828	95.0%
2010	1,855	1,785	571	96.2%
2011	1,088	1,017	308	93.5%
2012	866	777	47	89.7%
2013	853	768	37	90.0%
Total	15,787	15,037	6,983	95.2%

Note: The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJ Bridges’ decision data from between fiscal year 2005 and fiscal year 2013. The ‘Allowance’ column includes both fully favorable awards and partially favorable allowances. On-the-record allowances are allowances made without a hearing. The ‘Allowance Rate’ was obtained by dividing the ‘Allowance’ column by the ‘Decision’ column.

SSA Quality Reviews Show Serious Deficiencies in ALJ Bridges’ Decision-Making

SSA commissioned two “focused” reviews of ALJ Bridges’ decisions: one in late 2011 and another in late 2013. Both reviews show that ALJ Bridges is not suited to be a SSA ALJ.

The 2011 review stated that one law firm created a “Bridges Policy,” in which the firm accepted any individual as a client if their case was assigned to ALJ Bridges, regardless of the evidence.⁷⁵ The review noted that “This policy appropriately illuminates Judge Bridges’ alarming pay-rate despite underdevelopment of the record and general lack of support for his findings, as determined in this study.”⁷⁶ The 2011 review contains multiple examples of ALJ Bridges’ poor decision-making, such as obtaining testimony from vocational experts that is “irrelevant” or “insufficient,” relying on subjective complaints without evaluating them for credibility, and using disability listings when not supported by the evidence.⁷⁷

The results of the 2013 review are more explicit. For the first time, the reviewers conducted a *de novo* review of 25 of ALJ Bridges’ cases, including a review of the medical and

⁷⁴ When ALJ Bridges was eventually removed from his position as HOCALJ, he remained an ALJ and continued to decide a full load of cases for the agency.

⁷⁵ Focused Review of ALJ Charles Bridges (Oct. 2011) [Request 1 – 000106].

⁷⁶ *Id.*

⁷⁷ *Id.*

opinion evidence, as well as an audit of the hearing.⁷⁸ The review found that 60 percent of the 25 sampled decisions were not supported by substantial evidence.⁷⁹

The review also found that 76 percent of ALJ Bridges' hearings took less than 20 minutes, and his bench decisions⁸⁰ did not comply with agency policy.⁸¹ For example, ALJ Bridges "provided limited citations to the record, little rationale for the limitations assessed and no specific findings regarding the claimant's credibility or the weight of the opinion evidence."⁸² Additionally, the review categorized his hearings as "underdeveloped," because his hearings included little or no testimony from the claimant, and the narrative provided by ALJ Bridges was generally "identical" to the bench decision checklist which is completed by the claimants' attorney.⁸³

Current CALJ Debra Bice, who assumed former CALJ Cristaudo's role in January 2011, testified that as a result of this review, ALJ Bridges was required to undergo a ten-day training course.⁸⁴ According to CALJ Bice, ALJ Bridges has not yet shown improvement. Other measures, such as additional discussions with ALJ Bridges, are currently being considered by management.⁸⁵ ALJ Bridges continues to decide a full load of cases each year and award benefits in virtually all of them.

ALJ Bridges' Troubled Tenure as Hearing Office Chief ALJ

From May 2004 to June 2010, ALJ Bridges' served in a leadership role within the agency, as HOCALJ for the Harrisburg office. Throughout his tenure as HOCALJ, multiple ALJs complained to ALJ Bridges' supervisor, Jasper Bede, the Regional Chief ALJ (RCALJ) and CALJ Cristaudo that Bridges was "stealing cases" and engaging in other judicial misconduct.⁸⁶ Former HOCALJ Reana Sweeney submitted a lengthy complaint in August 2007, stating that it was widely known that ALJ Bridges pays benefits contrary to the law; she noted that one claimant representative smiled broadly while acknowledging that her income had gone up significantly since Bridges became HOCALJ.⁸⁷ In an email to RCALJ Bede on August 14, 2007, ALJ Sweeney wrote:

You spoke of the problems with Bridges as 'complicated' and then referred to how well Harrisburg and the region is doing with its numbers. Although the backlog is a significant problem and it is the obligation of all judges to address it, empowering any judges in any region to delete full due process hearings,

⁷⁸ Fiscal Year 2013 Focused Review of Charles Bridges (Jan. 15, 2014) [Request 1 – 000109].

⁷⁹ *Id.*

⁸⁰ The administrative law judge (ALJ) oral (bench) decisions are abbreviated wholly favorable decisions that are entered into the record of the hearing proceedings. The oral (bench) decision provides an alternative procedure for the ALJ to use when issuing the written decision.

⁸¹ Bridges focused review, *supra* note 78..

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Transcribed Interview with CALJ Debra Bice at 68 (May 13, 2014).

⁸⁵ *Id.*

⁸⁶ E-mail from former HOCALJ Reana Sweeney to Pat O'Carroll, Inspector General, SSA, et al. (Aug. 24, 2007) [Request 4 – 021667].

⁸⁷ *Id.*

disregard established procedural law with regard to dismissals, and, therefore, to issue thousands of dispositions per judge should be categorically unacceptable to any judge, agency component and agency that believes in due process of law.⁸⁸

RCALJ Bede acknowledged ALJ Bridges' unusually high production numbers to his supervisor, CALJ Cristaudo, in an undated memo.⁸⁹ RCALJ Bede wrote that ALJ Bridges issued 2,665 dispositions between July 2006 and June 2007, or an average of 10.7 cases per workday.⁹⁰ RCALJ Bede noted that ALJ Bridges' dispositions exceeded any other Region III ALJ by 1,331 cases, and that the FY 2007 national average disposition rate was 2.13 cases per day.⁹¹ He wrote that "such a high disposition rate is rightfully a subject for inquiry and scrutiny."⁹²

In response to these complaints, SSA conducted three major reviews of ALJ Bridges in late 2007: 1) a report by the Office of Quality Performance analyzing the quality of his decision-making;⁹³ 2) an Administrative Review analyzing his management of the office as HOCALJ;⁹⁴ and 3) a report by the SSA Office of Inspector General.⁹⁵ All three reports raised major red flags about ALJ Bridges' performance as a manager and as an ALJ. In a disservice to the Nation's taxpayers and to due process of law, the SSA took no meaningful action as a result of the reports. ALJ Bridges was allowed to serve in his leadership role as HOCALJ for two more years, and still decides a full load of cases.

Report #1: Office of Quality Performance Report

The Office of Quality Performance (OQP) Report⁹⁶ showed significant problems with ALJ Bridges' judicial decision-making. The usefulness of OQP's report is limited, because OQP did not conduct a *de novo* review and did not evaluate the actual evidence in the claimant's file. Instead, OQP simply reviewed whether ALJ Bridges cited any evidence to support his decisions. As a result, it is impossible to determine from the OQP report whether Judge Bridges' decisions were actually supported by the evidence. Moreover, OQP found that ALJ Bridges conducted a disturbingly high number of on-the-record decisions⁹⁷ (81 out of the 110 cases reviewed, or 74 percent).

When ALJ Bridges held hearings, the average hearing time was 13 minutes and eight seconds. Only two out of the 29 sampled hearings lasted over 20 minutes. CALJ Bice testified that scheduling hearings for less than 30 minute intervals would signal that the ALJ might need

⁸⁸ E-mail from former HOCALJ Reana Sweeney to RCALJ Jasper Bede (Aug. 14, 2007) [Request 4 – 006080].

⁸⁹ Memorandum from RCALJ Jasper Bede to former CALJ Frank Cristaudo (2007) [Request 4 – 006082].

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ OQP Report on the Results of a Special ODAR Review on former HOCALJ Charles Bridges [Request 4 – 021624].

⁹⁴ Administrative Investigation Report on Harrisburg, Pennsylvania Office of Disability Adjudication and Review (ODAR) Hearing Office [Request 4 – 012137]

⁹⁵ Memorandum from Assistant Inspector General for Audit, SSA, to Lisa DeSoto, SSA (June 2, 2008) [Request 4 – 021819].

⁹⁶ OQP Report, *supra* note 23.

⁹⁷ On the record decisions are decisions made by the ALJ without a claimant hearing.

to be reviewed for failing to issue quality decisions, and that it is more common to schedule hearings every hour.⁹⁸

OQP found that ALJ Bridges' hearings were "unlike those of most other judges" and that ALJ Bridges tended to be "unorthodox" in the way he conducted hearings.⁹⁹ In many cases, ALJ Bridges did not use vocational experts (VE) properly. For example, OQP found that some VEs did not participate until after ALJ Bridges made the decision to allow benefits.¹⁰⁰ According to OQP, "there were even cases in which ALJ Bridges questioned the VE after indicating that a medical listing was met," telling the VE "since you are here, I might as well use you."¹⁰¹

In addition to short hearing times, unconventional methods of questioning, and many on-the-record decisions held generally, OQP found that ALJ Bridges also discussed irrelevant and inappropriate topics during his hearings. For example, ALJ Bridges discussed "personal and hearing office productivity" during hearings, which OQP noted could be "misinterpreted, leading to questions about how ALJ Bridges adjudicates his cases."¹⁰² In every favorable decision examined by OQP, contrary to agency policy, at the end of the hearing ALJ Bridges informed claimants in person that he was awarding benefits. OQP noted that this was inappropriate because it may be subsequently determined that the claimant is not disabled or is ineligible to receive benefits.¹⁰³

OQP recommended that ALJ Bridges be counseled on several topics, including SSA's "sequential evaluation process," appropriate questioning of VEs and the application of the borderline age provision.¹⁰⁴ It is unclear whether RCALJ Bede or anyone at SSA ever counseled ALJ Bridges in accordance with these recommendations.

Report #2: Administrative Investigation Report on Harrisburg, Pennsylvania, Office of Disability Adjudication and Review (ODAR) Hearing Office

The SSA Administrative Investigation Report¹⁰⁵ revealed serious problems with ALJ Bridges' management of the hearing office and his conduct as an ALJ. SSA's investigation team interviewed all 39 employees within the Harrisburg office. Ultimately, the report concluded that the Harrisburg hearing office was "dysfunctional and is devoid of good leadership."¹⁰⁶

The report found that ALJ Bridges' actions and management style "intimidated the majority of employees and caused confusion, frustration, concern and low morale for many in the office."¹⁰⁷ ALJ Bridges' religious statements, which some employees characterized as

⁹⁸ Bice interview, *supra* note 84 at 21.

⁹⁹ OQP report, *supra* note 93.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ SSA report, *supra* note 94.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

“preaching,” also caused concern.¹⁰⁸ RCALJ Bede testified that “there were complaints against him having to do with what was felt to be religious ... he made references to doing God’s work and that sort of thing.”¹⁰⁹ The report noted that “the majority of employees are concerned about the large numbers of cases ALJ Bridges produces and his overwhelmingly favorable pay rate. ... Some employees are uncomfortable with their assignments and fearful of repercussions if it is ever determined that Bridges’ decisions are found to be legally non-supportable.”¹¹⁰

In addition to these general findings, the report pointed to several “red flags”¹¹¹ regarding ALJ Bridges:

- ALJ Bridges was “overly concerned” with high dispositions. ALJ Bridges “bragged” in hearings and in interviews with news organizations about Harrisburg’s high ranking for dispositions. ALJ Bridges even awarded a trophy to the ALJ with the most dispositions for the preceding month.¹¹² ALJ Bridges responded to a question about his high proportion of the office’s total dispositions by saying that “You have to do whatever you have to do to succeed.”¹¹³
- Staff morale and general office atmosphere were poor under ALJ Bridges’ leadership, partly due to increased tension and stress among the staff from processing the office’s enormous case output.¹¹⁴
- Two writers in ALJ Bridges’ group stated they had specifically been told not to go to ALJ Bridges if they felt there was insufficient medical evidence to support his instruction for a fully favorable decision.¹¹⁵ One decision writer described ALJ Bridges as an “embarrassment” and another said she is “not proud of what she does.”¹¹⁶

The report concluded that ALJ Bridges “cannot be exonerated for his management actions and for the dysfunctional situation that exists in Harrisburg.”¹¹⁷ The report recommended several actions, including leadership and sensitivity training, mentoring for ALJ Bridges, implementing the OQP report recommendations, and giving ALJ Bridges the option to transfer to another hearing office as HOCALJ.

¹⁰⁸ *Id.*

¹⁰⁹ Bice interview, *supra* note 84 at 92.

¹¹⁰ SSA report, *supra* note 94.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

Report #3: Office of the Inspector General Report: “Assignment of Claims in the Harrisburg Hearing Office”

SSA’s Office of the Inspector General (OIG) conducted a review of how ALJ Bridges was rotating cases among all the ALJs in his office.¹¹⁸ The OIG investigated allegations that ALJ Bridges was “stealing cases” or improperly assigning cases to himself, and that by doing so, he “altered his dispositions to his professional advantage.”¹¹⁹ The OIG found that ALJ Bridges failed to properly rotate cases in accordance with SSA policies.¹²⁰

Under SSA rotational policy, each ALJ should dispose of a similar percentage of claims in various age categories. However, in the Harrisburg Office, the OIG found that the proper rotation among ALJs had not occurred.¹²¹ The OIG also found that the Harrisburg Office’s rate of on-the-record decisions (or decisions made without a hearing) was 33 percent, more than twice the national average.¹²² Moreover, Bridges alone handled 77 percent of those on-the-record decisions, which the OIG found to be improper.¹²³

The OIG recommended that “the matter of assigning claims should be further investigated to determine why the claims are not being assigned on a rotational basis.”¹²⁴ In response to a question from ODAR Deputy Commissioner Lisa DeSoto about what they should do in light of OIG’s findings, CALJ Cristaudo wrote “I’m going to ask the region to provide comments but other than the children’s cases I don’t see a lot in the attached report that evidences much more than an ALJ who puts in incredible hours and is very efficient.”¹²⁵ Ms. DeSoto replied “OK – it’s in your hands.”¹²⁶

SSA Management’s Inadequate Response to ALJ Bridges’ Reports

Despite three critical reports detailing flaws with his management and judicial decision-making, the agency essentially took no action to prevent ALJ Bridges from continuing to improperly award benefits. CALJ Cristaudo and officials within ODAR, the office responsible for the first two reports, initially contemplated removing him from his position as HOCALJ.¹²⁷ Karen Ames, Director of ODAR, considered ALJ Bridges’ history of filing Equal Employment Opportunity (EEO) complaints when evaluating the proper action: “The strategy here is that we show that we are giving him opportunities and not just removing him at the first chance we get. In the end when he files his EEO, we will have documented that we tried.”¹²⁸ Other than

¹¹⁸ OIG memo, *supra* note 95.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ E-mail from former CALJ Frank Cristaudo to Lisa DeSoto, SSA, et al. (June 3, 2008) [Request 4 – 012320]

¹²⁶ E-mail from Lisa DeSoto, SSA, to former CALJ Frank Cristaudo, et al. (June 3, 2008) [Request 4 – 012320]

¹²⁷ E-mail from former CALJ Frank Cristaudo to Karen Ames, Director, Division of Quality Service, et al. (Jan. 21, 2008) [Request 4 – 021662].

¹²⁸ E-mail from Karen Ames, Director, Division of Quality Service, to former CALJ Frank Cristaudo (Feb. 24, 2008) [Request 4 – 006779].

directing RCALJ Bede to draft a “counseling memo” to ALJ Bridges, SSA management took no action to curtail ALJ Bridges.

Given the troubling findings in these three reports, the agency abdicated its responsibility as a steward of tax dollars by allowing ALJ Bridges to continue as an ALJ and allowing him to retain his leadership role with the agency for more than two additional years. The agency even appointed ALJ Bridges as a “mentor” for new ALJs multiple times throughout 2008 and 2009.¹²⁹

RCALJ Bede testified that ALJ Bridges’ high production numbers were highly problematic, but as ALJ Bridges’ direct supervisor there was nothing he could do about it.¹³⁰ RCALJ Bede stated that “just looking at his incredible production, it was an embarrassment, and I was trying -- basically talking to him to bring those numbers down, and you can see they came down very slowly until the last 2 years.”¹³¹ He testified that CALJ Cristaudo had “nothing to offer than what I was doing, which was try to talk [to ALJ Bridges].”¹³²

ALJ Bridges was finally removed from his HOCALJ position on June 4, 2010 because he took a case from another ALJ’s desk and awarded benefits.¹³³ RCALJ Bede testified that “looking into that, there was indication that he might have done that in more than one case.”¹³⁴ Tellingly, RCALJ Bede’s email notifying the hearing office of ALJ Bridges’ removal thanked him for his years of “energetic service” as HOCALJ, a potential signal to office employees that the quantity of decisions issued by an ALJ mattered far more than the quality of those decisions.¹³⁵

In the years following his removal as HOCALJ, ALJ Bridges applied for multiple open HOCALJ positions throughout the country, although SSA never appointed him as HOCALJ.¹³⁶ After several rejections, ALJ Bridges filed and ultimately lost an EEO complaint against RCALJ Bede, alleging that he was not selected for additional HOCALJ positions because of racial discrimination.¹³⁷

After ALJ Bridges was removed as HOCALJ, complaints about his judicial misconduct continued. In June 2011, CALJ Bice received allegations via email that ALJ Bridges was pulling cases from the master docket and assigning them to himself.¹³⁸ Emails also reveal that SSA employees alleged that ALJ Bridges violated agency policy regarding the protection of

¹²⁹ See e-mail from Helena Quinn, SSA, to RCALJ Jasper Bede, et al. (July 14, 2008) [Request 4 – 012335], *see also* e-mail from ALJ Charles Bridges, SSA, to Edward Brady, et al. (Sep. 29, 2009) [Request 4 – 002774].

¹³⁰ Bede interview, *supra* note 17 at 75.

¹³¹ *Id.* at 144.

¹³² *Id.* at 147.

¹³³ *Id.* at 145.

¹³⁴ *Id.*

¹³⁵ E-mail from RCALJ Jasper Bede to former CALJ Frank Cristaudo, et al. (June 7, 2010) [Request 4 – 008360].

¹³⁶ See memorandum from RCALJ Jasper Bede to CALJ Debra Bice, et al. (June 1, 2012) [Request 4 – 009959], *see also* e-mail from RCALJ Jasper Bede to ALJ Charles Bridges (Nov. 9, 2012) [Request 4 – 018808], *see also* memorandum from RCALJ Jasper Bede to CALJ Debra Bice, et al. (Jan. 14, 2013) [Request 4 – 010736].

¹³⁷ See affidavit of RCALJ Jasper Bede with EEO Investigator (April 3, 2013) [Request 4 – 010041], *see also* *Bridges v. Colvin*, PHI-13-0181-SSA (2013)(final agency decision) [Request 4 – 010224].

¹³⁸ E-mail from Renee Gibbs, SSA, to James Julian, SSA, et al. (June 17, 2011) [Request 4 – 018450], e-mail from Amy Prether, SSA, to CALJ Debra Bice, et al. (June 17, 2011) [Request 4 – 018454].

personally identifiable information.¹³⁹ The new HOCALJ in the Harrisburg Office, ALJ Theodore Burock, twice wrote RCALJ Bede about ALJ Bridges' poor quality work product, and RCALJ Bede passed on the comments to CALJ Bice.¹⁴⁰ As a result, CALJ Bice recommended ALJ Bridges for several focused reviews, discussed earlier, which showed critical errors in his judicial decision-making."¹⁴¹ Despite these findings, ALJ Bridges continues to decide a full load of cases.

Between 2008 – the date of the initial three critical reports – and 2013, ALJ Bridges placed more than 8,300 people on either SSDI or SSI at a total present and future cost to the federal government of approximately \$2.5 billion. ALJ Bridges' disposition numbers, combined with the focused review findings, conclusively prove that he allowed many, and possibly most, of his cases without following proper procedures and as a result of sloppy work. The agency's decision to not remove ALJ Bridges, despite repeated opportunities, has harmed both taxpayers and the truly disabled and reflects very poorly on the agency's stewardship of federal disability programs over the past decade.

III. Case Study of ALJ David Daugherty

From 2005 to his retirement in mid-2011, ALJ Daugherty awarded disability benefits to 8,413 individuals, the equivalent of approximately \$2.5 billion in federal lifetime benefits.¹⁴² Table 3 shows the disposition data for ALJ Daugherty, the ALJ with the seventh highest overall allowance rate (98.6 percent) in the country between 2005 and 2011. This case study will show that SSA failed to take action, despite evidence of ALJ Daugherty's poor judicial decision-making and a collusive scheme with a claimant representative, until news attention embarrassed the agency. Evidence suggests that ALJ Daugherty's high production numbers, which helped his hearing office reach its production goal, isolated ALJ Daugherty from disciplinary action.

ALJ Daugherty's Collusive Scheme with Claimant Representative Eric Conn

In 2013, the U.S. Senate Committee on Homeland Security and Governmental Affairs released a staff report (Senate Staff Report) which uncovered a number of improper practices and an "inappropriate collusive effort" in SSA's Huntington, West Virginia, Office of Disability Adjudication and Review (ODAR) involving ALJ Daugherty and the Eric C. Conn Law Office.¹⁴³ ALJ Daugherty assigned Mr. Conn's cases to himself and approved benefits for

¹³⁹ E-mail from Michelle Hall, SSA, to HOCALJ Theodore Burock (Nov. 30, 2012) [Request 4 – 010082], e-mail from Janet Landesberg to HOCALJ Theodore Burock, et al. (Mar. 27, 2013) [Request 4 – 010086].

¹⁴⁰ E-mail from HOCALJ Theodore Burock to RCALJ Jasper Bede (Oct. 28, 2013) [Request 4 – 019875], e-mail from HOCALJ Theodore Burock to RCALJ Jasper Bede (Nov. 22, 2013) [Request 4 – 19906].

¹⁴¹ E-mail from CALJ Debra Bice to Jim Borland, SSA (Nov. 1, 2013) [Request 4 – 019878].

¹⁴² The present value of federal benefits from gaining eligibility in SSDI, which includes benefits from other programs that an individual has been made eligible for because of enrollment in SSDI, has been calculated at \$300,000.

¹⁴³ STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, 113TH CONG., HOW SOME LEGAL, MEDICAL, AND JUDICIAL PROFESSIONALS ABUSED SOCIAL SECURITY DISABILITY PROGRAMS FOR THE COUNTRY'S MOST VULNERABLE: A CASE STUDY OF THE CONN LAW FIRM (Oct. 7, 2013).

Table 3: ALJ Daugherty’s Adjudication Data, 2005-2011

Fiscal Year	Decisions	Allowances	On-the-Record Allowances	Allowance Rate
2005	955	905	428	94.8%
2006	1,147	1,114	591	97.1%
2007	1,248	1,233	683	98.8%
2008	1,390	1,379	635	99.2%
2009	1,415	1,410	692	99.6%
2010	1,375	1,371	649	99.7%
2011	1,003	1,001	506	99.8%
Total	8,533	8,413	4,184	98.6%

Note: The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJ Daugherty’s decision data from between fiscal year 2005 and fiscal year 2011. The ‘Allowance’ column includes both fully favorable awards and partially favorable allowances. On-the-record allowances are allowances made without a hearing. The ‘Allowance Rate’ was obtained by dividing the ‘Allowance’ column by the ‘Decision’ column.

virtually all of the claimants represented by Mr. Conn.¹⁴⁴ In total, ALJ Daugherty awarded half a billion dollars of benefits to Mr. Conn’s clients between 2005 and mid-2011.¹⁴⁵ Mr. Conn, who collected nearly \$23 million in total attorney fees from the federal government by representing persons claiming disability, allegedly provided kickbacks to physicians who falsified medical records and possibly to ALJ Daugherty as well.¹⁴⁶

Despite agency rules that require rotational case assignment, as early as 2003, SSA employees observed ALJ Daugherty manipulating SSA’s case assignment system to re-assign Mr. Conn’s cases to himself.¹⁴⁷ Each month, Mr. Conn called ALJ Daugherty with a new list of his clients and their social security numbers.¹⁴⁸ Many of these cases involved claimants who had previously been denied benefits by another ALJ in the Huntington office, but had filed new claims.¹⁴⁹ ALJ Daugherty took extreme measures to ensure that he decided the cases on Mr. Conn’s “DB List”—referring to ALJ Daugherty’s nickname— including re-assigning the cases to himself, against agency policy, even when other ALJs had already begun developing the cases and had scheduled hearings for them.¹⁵⁰

ALJ Daugherty was able to assign cases to himself because of an unknown technical problem in SSA’s internal system. CALJ Bice testified that the “glitch” allowed ALJs to subvert the normal case rotation process and assign cases to themselves, although it was against SSA policy.¹⁵¹ The glitch was not discovered until ALJ Daugherty’s scheme became public

¹⁴⁴ *Id.* at 2.

¹⁴⁵ *Id.* at ___

¹⁴⁶ *Id.* at 57-58, ___

¹⁴⁷ *Id.* at 2.

¹⁴⁸ *Id.* at 5.

¹⁴⁹ *See id.* at 35.

¹⁵⁰ *Id.* at 5.

¹⁵¹ *See* Bice interview, *supra* note 84 at 34-8.

knowledge in June 2011; CALJ Bice testified the glitch was in place since at least 2005 and SSA does not know how many other ALJs assigned cases to themselves during that time period.¹⁵²

The Senate Staff Report uncovered additional evidence indicating that ALJ Daugherty wasted taxpayer dollars to perpetuate his scheme with Mr. Conn. For example, on September 5, 2002, ALJ Daugherty cancelled 30 hearings that were scheduled for three days later that month and issued favorable decisions (without hearings) for all of them.¹⁵³ Nearly all of these cases involved Mr. Conn's clients. Frank Cristaudo, who at the time was the RCALJ for Region 3, reported ALJ's Daugherty's actions to the Associate Commissioner: "Judge Daugherty stated that he took this action to help the office attain numerical goals. ... To state that 30 hearings were cancelled and 30 on-the-record decisions issued to help the agency meet performance goals suggests possible impropriety and flawed decisions."¹⁵⁴ RCALJ Cristaudo drafted a letter of reprimand based on ALJ Daugherty's conduct but "could not get my headquarters to take action," and ALJ Daugherty's possibly "flawed decisions" were not investigated.¹⁵⁵

Multiple employees notified Huntington's Hearing Office Chief ALJ (HOCALJ) Charlie Andrus and Hearing Office Director Greg Hall of evidence that ALJ Daugherty was re-assigning Mr. Conn's cases to himself and awarding benefits to many claimants without holding a hearing.¹⁵⁶ Despite a memo from HOCALJ Andrus to the entire Huntington hearing office in July 2006 regarding proper case-rotation policy, ALJ Daugherty continued to re-assign Mr. Conn's cases to himself for many years with the apparent knowledge of HOCALJ Andrus and Mr. Hall. The Senate Staff Report details numerous examples of HOCALJ Andrus and Mr. Hall ignoring complaints against ALJ Daugherty.¹⁵⁷

In addition to his manipulation of the case-rotation system, SSA employees and other ALJs regularly reported that Daugherty was conducting sham hearings that only lasted a few minutes before he approved claimants for benefits.¹⁵⁸ In 2007, one ALJ in the hearing office documented that ALJ Daugherty had "[p]eople coming in and out of the hearing room in five minute intervals after being told that their case would be granted."¹⁵⁹ ALJ Daugherty rarely took testimony from vocational experts (VE) during his hearings, although agency policy required them to be paid a set amount per hearing.¹⁶⁰

SSA Quality Reviews Show Serious Deficiencies in ALJ Daugherty's Decision-Making

An August 15, 2011, draft report by SSA's Division of Quality (DQ) showed that ALJ Daugherty essentially rubber-stamped claimants onto the federal disability programs.¹⁶¹ DQ

¹⁵² *Id.*

¹⁵³ *See supra* note 143 at 45.

¹⁵⁴ *Id.* at 46.

¹⁵⁵ *See* Cristaudo interview *supra* note 8 at 145.

¹⁵⁶ *See supra* note 143.at 37-44.

¹⁵⁷ *Id.* at

¹⁵⁸ *Id.* at 2.

¹⁵⁹ *Id.* at 108.

¹⁶⁰ *Id.*

¹⁶¹ *See* Draft: Report of the Division of Quality's Review of Decisions Issued by the Huntington, WV Hearing Office (August 15, 2011) [Request 1 – 000073].

reviewed a random sample of 128 of ALJ Daugherty's decisions from one month in early 2011.¹⁶² ALJ Daugherty approved all 128 claimants for benefits, and approved 62 cases without holding a hearing.¹⁶³ Forty-nine hearings lasted two minutes or less, and another 16 hearings lasted between two and five minutes.¹⁶⁴ Only one hearing lasted longer than five minutes.¹⁶⁵

Fifty-eight cases, or 45 percent of the sample, involved claimants represented by Mr. Conn, and the reviewers determined that ALJ Daugherty assigned all of those cases to himself.¹⁶⁶ He only held hearings in two out of Mr. Conn's 58 cases.¹⁶⁷ DQ determined that ALJ Daugherty was deficient in discovering a number of areas of important evidence during the hearings.¹⁶⁸ The reviewers found that in all 58 of the cases involving Mr. Conn, ALJ Daugherty based his findings of disability solely on medical evidence submitted by the claimant representative (Mr. Conn) and did not address any other evidence.¹⁶⁹ The reviewers also found that an identical four paragraphs were cut and pasted into every decision.¹⁷⁰

Despite Numerous Allegations, SSA Failed to Take Action until News Media Exposed ALJ Daugherty's Scheme

In December 2010, a West Virginia blogger wrote an article about the disproportionate number of Mr. Conn's cases that ALJ Daugherty decided favorably.¹⁷¹ In response to this blog post, Joseph M. Lytle, a director in the Office of CALJ Debra Bice, wrote to Associate Chief ALJ (ACALJ) Paul Lillios and CALJ Bice: "I don't believe this is a new issue and Judge Bede and Nick Cerulli (Regional Atty) can likely provide valueable [sic] insight and history. Also, I'm sure Judge Andrus has helpful information as well."¹⁷² In e-mails between HOCALJ Andrus and *Wall Street Journal* reporter Damian Paletta, HOCALJ Andrus acknowledged that he was notified three times over several years that ALJ Daugherty assigned or re-assigned Mr. Conn's cases to himself.¹⁷³

Following the *Wall Street Journal's* May 19, 2011, article on ALJ Daugherty's collusive scheme,¹⁷⁴ SSA's OIG opened an investigation into the entire Huntington hearing office. Facing public embarrassment and intense media scrutiny, the agency finally took its first disciplinary action against ALJ Daugherty, many years after the allegations against him were first reported, by placing him on administrative leave. ALJ Daugherty told the *Wall Street Journal* that he had

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 000074.

¹⁷⁰ *Id.*

¹⁷¹ Jack Swint, *Is the Social Security Appeals Process Beyond Repair*, W. VA. NEWS, (Jan. 3, 2011), <http://westvirginianews.blogspot.com/2010/11/has-social-security-appeals-process.html>.

¹⁷² E-mail from Joseph Lytle to CALJ Debra Bice, et al. (Feb. 8, 2010) [Request 4 – 017710].

¹⁷³ E-mail from HOCALJ Charlie Andrus to Damian Paletta, Reporter, WALL ST. J. (May 5, 2011) [Request 4 – 009432].

¹⁷⁴ Damien Paletta, *Disability-Claim Judge Has Trouble Saying 'No'*, WALL ST. J., May 19, 2011, <http://online.wsj.com/news/articles/SB10001424052748704681904576319163605918524>.

no idea why he was placed on leave and that it was temporary.¹⁷⁵ He also stated that it was a “coincidence” that he had approved 100 percent of the cases he decided in the first six months of FY 2011. SSA removed his supervisor, Mr. Andrus, from his HOCALJ position on June 8, 2011, and Mr. Daugherty retired on July 13, 2011. Despite the evidence collected by the OIG and the Senate investigators, as well as whistleblower testimony, the U.S. Attorney for the Southern District of West Virginia has yet to bring any criminal charges against either Mr. Daugherty or Mr. Conn.

ALJ Daugherty’s High Production Numbers May Have Protected Him from Agency Scrutiny

Although ALJ Daugherty’s adjudication data and complaints from other office employees should have prompted agency action, agency officials left him undisturbed to continue rubber-stamping individuals onto the program. Evidence suggests that the agency failed to properly deal with ALJ Daugherty because SSA officials approved of his high production numbers, which helped the Huntington office make its disposition goal. For example, RCALJ Bede testified that ALJ Daugherty’s production may have protected him:

Whether [high production numbers] protected him from Judge Andrus, in retrospect, knowing what we know now, I can't say. It appears that it might ... the actions of the Judge Daugherty, some of which were not connected with his production, went unnoticed, and I don't know why.¹⁷⁶

Other ALJs in the Huntington office knew that ALJ Daugherty was largely responsible for the hearing office making its disposition targets. In 2006, ALJ William H. Gitlow in the Huntington hearing office explained to a colleague: “[a]mazing how it takes a[n] ... ALJ in an office to make numbers each month. We have Judge Daugherty here who scans the master docket each month, pays 90% and gets out 80 to 100 cases each month. So we make our numbers each month. Without him we would not. Ever.”¹⁷⁷ [emphasis added]

An internal agency review concluded that the Huntington office management team was in “disarray,” lacked policy compliance, and was solely focused on the number of dispositions.¹⁷⁸ Since the agency placed such a priority on meeting the production goals and regularly praised hearing offices and regions that achieved the goals, it appears that HOCALJ Andrus and other agency employees choose to ignore ALJ Daugherty’s poor decision-making and contemptible, if not unlawful, conduct in order to meet the agency’s production goal.

Given the numerous warning signs about ALJ Daugherty and opportunities for the agency to take corrective action, including accounts of whistleblowers in the Huntington office, it is telling that the agency failed to take any action until *after* the *Wall Street Journal* published the article. ALJ Daugherty’s extremely high allowance rates and excessive number of dispositions should have signified years earlier that he was not producing quality decisions. If

¹⁷⁵ Damien Paletta, *Disability Judge Put on Leave From Post*, WALL ST. J., May 27, 2011 <http://online.wsj.com/news/articles/SB10001424052702303654804576347790598676096>.

¹⁷⁶ See Bede interview, *supra* note 17 at 109.

¹⁷⁷ See *supra* note 27 at 38.

¹⁷⁸ The Huntington Success Story (July 2013) [Request 4 – 010132].

the agency had properly handled ALJ Daugherty when the problems were first apparent, SSA probably would have saved the taxpayers well over \$1 billion dollars between 2005 and 2011.

IV. Case Study of ALJ Harry Taylor

Between 2005 and 2013, ALJ Taylor awarded disability benefits to 8,277 individuals, the equivalent of approximately \$2.5 billion in federal lifetime benefits.¹⁷⁹ Table 4 shows the disposition data for ALJ Taylor. He had an overall allowance rate of nearly 94 percent and awarded benefits to nearly 6,000 people without a hearing. This case study will show that SSA did nothing to stop ALJ Taylor from wasting taxpayer dollars for years, even after there was clear evidence of personal misconduct and non-compliance with agency policies.

Table 4: ALJ Taylor’s Adjudication Data from 2005-2013

Fiscal Year	Decisions	Allowances	On-the-Record Allowances	Allowance Rate
2005	999	951	623	95.2%
2006	1,017	969	681	95.3%
2007	1,086	1,049	879	96.6%
2008	1,084	1,041	893	96.0%
2009	924	893	719	96.6%
2010	1,015	944	675	93.0%
2011	1,023	946	696	92.5%
2012	886	805	506	90.9%
2013	736	629	310	85.5%
Total	8,770	8,227	5,982	93.8%

Note: The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJ Taylor’s decision data from between fiscal year 2005 and fiscal year 2013. The ‘Allowance’ column includes both fully favorable awards and partially favorable allowances. On-the-record allowances are allowances made without a hearing. The ‘Allowance Rate’ was obtained by dividing the ‘Allowance’ column by the ‘Decision’ column.

SSA Reviews Found Significant Problems with ALJ Taylor’s Decisions

Regional Chief ALJ (RCALJ) Jasper Bede testified that ALJ Taylor, who was under his supervision, does “sloppy work.”¹⁸⁰ ALJ’s Taylor’s immediate supervisor, Hearing Office Chief ALJ (HOCALJ) Burock, also expressed concerns about the quality of Taylor’s work product:

An update: out of 100 cases in unwr [unassigned writing status], 83 cases are Taylor’s and 17 are those of the other 8 judges. Most, if not all, of these Taylor cases will be fully favorable with the majority being on the record decisions. If the quality of his analyses for these cases is at his usual level there will be work

¹⁷⁹ The present value of federal benefits from gaining eligibility in SSDI, which includes benefits from other programs that an individual has been made eligible for because of enrollment in SSDI, has been calculated at \$300,000.

¹⁸⁰ Bede interview, *supra* note 17 at 133 (Oct. 7, 2013).

after onset issues ignored or missed, prior applications which could be reopened but ignored or missed and generally a lack of evidence to support his decisions. Judge Cristaudo's e-mail of today indicates that low productivity by a judge is not cause for action. What about total incompetence?¹⁸¹ [emphasis added]

A 2011 formal review confirmed the suspicions that ALJ Taylor's work was "sloppy" and "incompetent." For example, ALJ Taylor made a large number of allowances without hearings in which little or no new evidence received after the DDS denial.¹⁸² The review stated that "even in cases where the evidence may have supported a finding of disability, those cases were decided OTR [on-the-record] with medical evidence seven months to a year prior to the hearing."¹⁸³ When ALJ Taylor held hearings, the review found that he never elicited testimony from medical experts. The report found that an "overreaching problem" with the reviewed decisions "was a lack of rationale. ... There would be little evaluation of the evidence and no function by function assessment of the claimant's [sic] abilities."¹⁸⁴

Two years after the initial review, SSA's Office of Appellate Operations Division of Quality (DQ) completed a focused review of his decisions.¹⁸⁵ This review found that ALJ Taylor's work product continued to be of poor quality and out of compliance with agency policies:

Many of the cases reviewed contained little to no evidence after the State agency (DDS) determination, but were still issued as favorable decisions. More than 50% of the cases we reviewed were issued on-the-record. In at least two instances, Senior attorneys screened the cases and decided not to issue an OTR decision, however, the ALJ subsequently issued an OTR decision in those cases. Even in cases where evidence was received after the DDS determination, it was often not discussed in the decision, irrelevant to the issues in the case or immaterial to the finding of disability. ... The majority of the cases contained opinions and assessments from DDS medical and psychological consultants that were inconsistent with the ALJ's finding of disability. These assessments and opinions were dismissed without proper analysis.¹⁸⁶ [emphasis added]

The review also found that ALJ Taylor's decisions often contained onset dates that were not supported by the evidence, meaning that he approved claimants to receive benefits for periods of time before the alleged disability onset date. There were also substantial problems with ALJ Taylor's evaluation of drug abuse and alcoholism evidence.¹⁸⁷ Despite these findings, ALJ Taylor continues to decide a full load of cases for the agency.

¹⁸¹ E-mail from HOCALJ Theodore Burock to Jasper J. Bede, Regional Chief ALJ, SSA (April 23, 2010) [Request 4 – 008356].

¹⁸² Focused review of ALJ Harry Taylor [Request 1 – 000060].

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ Memorandum from OAO Division of Quality to ODAR Executive Staff: Focused Review of ALJ Harry Taylor (May 15, 2013) [Request 1 – 000033].

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

ALJ Taylor Engaged in Years of Personal Misconduct in the Hearing Office

Since at least 2007, SSA management expressed concerns about ALJ Taylor's misconduct in the hearing office. In July 2007, Charleston, West Virginia, HOCALJ Theodore Burock drafted a counseling memo for ALJ Taylor after he left an inappropriate message on a female employee's voice mail, and the memo threatened future disciplinary action if the misconduct occurred again.¹⁸⁸ HOCALJ Burock also expressed concern for ALJ Taylor's personal and professional well-being and urged him to seek professional assistance for any personal problems he might have been experiencing.¹⁸⁹ HOCALJ Burock informed RCALJ Bede that ALJ Taylor believed that other ALJs were trying to "control" his hearings by using signals in the court room, but that HOCALJ Burock did not find ALJ Taylor's accusations credible.¹⁹⁰

Throughout 2008, ALJ Taylor exhibited additional misconduct which should have led to discipline or removal. First, ALJ Taylor was caught making inappropriate calls to a claimant representative firm. HOCALJ Burock had problems getting written statements about the incidents because the representative "indicated some fear of getting on the wrong side of Taylor. [He], quite bluntly, pointed to Taylor's high pay rate and his wish to be able to have Taylor decide his cases."¹⁹¹ Second, ALJ Taylor acted inappropriately toward a female SSA employee.¹⁹² In December 2008, HOCALJ Burock drafted a counseling memo, but the agency failed to discipline ALJ Taylor about his behavior.¹⁹³

Third, ALJ Taylor repeatedly slept in his office, during staff meetings, *and during hearings*.¹⁹⁴ ALJ Taylor initially denied sleeping in his office when HOCALJ Burock confronted him, offering several excuses, including that he was "only pretending to sleep."¹⁹⁵ In a May 27, 2009, memo to RCALJ Bede, HOCALJ Burock described that he had witnessed ALJ Taylor sleeping on duty twice, once in the hearing room while he was holding video hearings, and another time in his office.¹⁹⁶ He also recounted numerous other sleeping incidents witnessed by other SSA employees and court officials.¹⁹⁷ He recounted one employee's statement that "Judge Taylor's snoring was the subject of discussion/humor among the writers whose offices are nearby" and that he could "be heard snoring just about every other day."¹⁹⁸ HOCALJ Burock noted that "[e]ach incident was witnessed by more than one individual. As such, ALJ Taylor's excuses and explanations are not credible."¹⁹⁹ In response, the agency merely issued a reprimand letter to ALJ Taylor on July 6, 2009.²⁰⁰

¹⁸⁸ E-mail between HOCALJ Theodore Burock and Howard Goldberg (July 5, 2007) [Request 4 – 021385].

¹⁸⁹ *Id.* at 000573.

¹⁹⁰ *Id.*

¹⁹¹ E-mail from HOCALJ Theodore Burock to Helena Quinn, Acting Regional Attorney, SSA (June 26, 2008) [Request 4 – 007046].

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ Memorandum from HOCALJ Theodore Burock to ALJ Harry Taylor (Aug. 2008) [Request 4 – 001568].

¹⁹⁵ *Id.*

¹⁹⁶ Memorandum from HOCALJ Theodore Burock to RCALJ Jasper Bede (May 27, 2009) [Request 4 – 012895].

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at 012897.

¹⁹⁹ *Id.*

²⁰⁰ Letter from RCALJ Jasper Bede to ALJ Harry Taylor (July 6, 2009) [Request 4 – 012911].

However, this reprimand did not curtail ALJ Taylor’s behavior, and his continued sleeping on the job became an “office joke,” according to HOCALJ Burock.²⁰¹ Instead of suspending ALJ Taylor, HOCALJ Burock held a Weingarten meeting—an investigative meeting between management officials and bargaining unit employees²⁰²—with ALJ Taylor to discuss his sleeping on the job. During this meeting, HOCALJ Burock played ALJ Taylor a CD recording of an August 2009 hearing when his snoring was audible.²⁰³ In an e-mail to RCALJ Bede about the meeting, HOCALJ Burock relayed that ALJ Taylor stated that “if he were brought before the MSPB [Merit Systems Protection Board], he would prefer to resign.”²⁰⁴ Between June 2010 – when ALJ Taylor allegedly threatened to resign if he was brought before MSPB – and the present, ALJ Taylor placed about 3,000 additional individuals onto disability, at a cost of approximately \$900 million dollars in lifetime benefits.²⁰⁵

By December 17, 2010, ALJ Taylor’s actions caught the attention of high-ranking agency officials. Helena Quinn, Acting Regional Attorney, wrote RCALJ Bede that “executives in the DC’s office are very concerned that Judge Taylor be given a directive in writing regarding sexual harassment (in addition to whatever discipline comes out of the sleeping/harassment charges that are currently being ‘polished’ up for OGC by DQS.) They are SO [sic] concerned that they are actually volunteering to send us the directive which should be given to him.”²⁰⁶ SSA finally recommended a 14-day suspension to the MSPB on February 16, 2011,²⁰⁷ and ALJ Taylor signed a 14-day suspension settlement agreement on May 11, 2011²⁰⁸ — *four years* after the allegations of sleeping and other inappropriate conduct first occurred.

After his suspension, ALJ Taylor continued to violate agency policies, and, on April 19, 2013, RCALJ Bede wrote to CALJ Bice recommending a 60-day suspension because ALJ Taylor “attempted to directly contact a represented claimant; discussed the claimant’s PII [personally identifiable information] with a third party who was not the claimant’s representative; and failed to give statements to the HOCALJ responsible to investigate the situation.”²⁰⁹ RCALJ Bede mentioned another inappropriate conversation ALJ Taylor had with a female coworker on April 26, 2012, and noted, “[T]his repeat of inappropriate conduct toward a female co-worker occurred less than 10 months after [ALJ Taylor’s] 14-day suspension. It appears a much more severe penalty is necessary in order to impress upon [ALJ Taylor] the gravity of his misconduct.”²¹⁰ CALJ Bice testified that Bede’s April 2013 recommendation of a 60-day suspension for ALJ Taylor is still pending.²¹¹

²⁰¹ E-mail from HOCALJ Theodore Burock to Gary Guy, SSA (May 10, 2010) [Request 4 – 014990].

²⁰² 5 U.S.C. § 7114(a)(2)(A),(B) (2012).

²⁰³ E-mail from HOCALJ Theodore Burock to RCALJ Jasper Bede (June 11, 2010) [Request 4 – 008361].

²⁰⁴ Memorandum from HOCALJ Theodore Burock to RCALJ Jasper Bede [Request 4 – 008390].

²⁰⁵ See Table 4. Also, ALJ Taylor has allowed at least 257 individuals onto disability in FY 2014 (September 28, 2013 through April 25, 2014)

²⁰⁶ E-mail from Helena Quinn, SSA, to RCALJ Jasper Bede, et al. (Dec. 17, 2010) [Request 4 – 008644].

²⁰⁷ *SSA v. Taylor*, M.S.P.R. docket number CB 7521-11-0006-T-1 (Feb. 16, 2011) [Request 4 – 017123].

²⁰⁸ Settlement agreement between SSA and ALJ Harry Taylor (May 11, 2011) [Request 4 – 009436].

²⁰⁹ Letter from RCALJ Jasper Bede to CALJ Debra Bice (April 19, 2013) [Request 4 – 004596].

²¹⁰ *Id.*

²¹¹ Bice interview, *supra* note 84 at 219.

SSA Refused to Act, Despite Evidence of Poor Decision-Making and Repeated Misconduct

Although ALJ Taylor's adjudication data and complaints from other SSA employees about his inappropriate conduct should have prompted agency action, SSA officials left him undisturbed to continue rubber-stamping individuals into the program. Similar to ALJs Bridges and Daugherty, evidence suggests that the agency failed to act because ALJ Taylor's high production improved the overall disposition numbers of Charleston's hearing office. For example, after RCALJ Bede visited the Charleston Hearing Office on May 22, 2008, he wrote a memo praising its adjudication data, including its high average processing time and dispositions per day per ALJ.²¹² ALJ Taylor's disproportionately large caseload was chiefly responsible for these high numbers.

Based on deficiencies found in his decisions during the May 2013 focused review, ALJ Taylor was ordered to complete a 10-day in-house remedial training program. RCALJ Bede reported to the HOCALJ on September 3, 2013, that "[i]t is still too early to determine if there has been substantive improvement" from Taylor after his focused review meeting and training.²¹³

In December 2013, RCALJ Bede's office summarized five new allegations of misconduct by ALJ Taylor including another charge of sleeping during a hearing on November 21, 2013, and several new incidents of inappropriate conduct toward female employees.²¹⁴ These allegations are part of an open investigation. ALJ Taylor's high decision total, high number of decisions without hearings, and excessive allowance rate, combined with his personal misconduct, demonstrate that ALJ Taylor should not be deciding disability cases. However, ALJ Taylor continues to decide a full caseload, and awards benefits to nearly every claimant before him.

V. SSA Lacked Quality Metrics to Evaluate ALJs

An ALJ's "principal responsibilities are to hold a full and fair hearing and issue a legally sufficient and defensible decision."²¹⁵ ALJs also "have a duty to ensure that the administrative record is fully and fairly developed."²¹⁶ ALJs develop the record by holding a hearing and obtaining evidence from the claimant as well as appropriate medical and vocational experts. Since disability hearings are non-adversarial, ALJs are the only government representative present at the claimant hearing. As such, it is important that ALJs carefully consider all evidence, particularly evidence submitted by the claimant and his or her attorney. The Social Security Act requires that the ALJ base his or her decision on "evidence adduced at the hearing."²¹⁷ SSA ALJs are required to consider the entire case record when assessing an individual's claim, particularly in assessing claimant credibility:

²¹² Memorandum from RCALJ Jasper Bede to Charleston Hearing Office (May 22, 2008) [Request 4 – 001489].

²¹³ E-mail from RCALJ Jasper Bede to Amy Prether, SSA, et al. (Sep 3, 2013) [Request 4 – 019411].

²¹⁴ Document regarding allegations towards ALJ Harry Taylor [Request 4 – 005240].

²¹⁵ See HALLEX I-2-0-5 B, available at http://www.ssa.gov/OP_Home/hallex/I-02/I-2-0-5.html.

²¹⁶ See HALLEX I-2-6-56, note 2, available at http://www.ssa.gov/OP_Home/hallex/I-02/I-2-6-56.html.

²¹⁷ *Id.*

In determining the credibility of the individual's statements, the adjudicator must consider the entire case record, including the objective medical evidence, the individual's own statements about symptoms, statements and other information provided by treating or examining physicians or psychologists and other persons about the symptoms and how they affect the individual, and any other relevant evidence in the case record.²¹⁸

Moreover, former CALJ Frank Cristaudo, who supervised the ALJs, testified that ALJs do not have discretion to ignore relevant evidence.²¹⁹ Mr. Cristaudo testified that ALJ decisions should be legally sufficient, which he defined as decisions that were "policy-compliant and have sufficient evidence to warrant the factual conclusions that are reached."²²⁰

Until 2011, the requirement that ALJs consider the entire case record before reaching a decision was essentially meaningless because SSA did not even monitor, much less ensure, that decisions were policy compliant. The agency did not monitor how many cases ALJs decided without a hearing. For example, from 2005 to 2013, ALJ Bridges, ALJ Daugherty, and ALJ Taylor allowed 44 percent, 49 percent, and 68 percent of their decisions without hearings, respectively. Since the claim had already been denied (often twice) before it reaches an ALJ, an unusually high number of decisions without hearings should have raised questions.

Perhaps worst of all, the agency did not use ALJ allowance rates or total number of dispositions as an indication of whether the agency should inquire as to whether ALJs were properly evaluating evidence. According to Mr. Cristaudo's testimony, the agency did not look at "individual allowance rates on a systemic basis" when he was chief ALJ.²²¹ In fact, numerous ALJs have testified before the Committee on Oversight and Government Reform that the agency evaluated ALJs with a single metric: the number of cases processed by the ALJ in a given period of time.²²²

The agency ignored ALJ allowance rates and disposition totals despite widespread recognition within the agency that ALJs cannot properly evaluate the evidence if they are deciding too many cases. For example, in addition to RCALJ Bede's testimony that ALJ allowance rates in excess of 75 percent or 80 percent raise a "red flag" about the quality of ALJs' decisions, he also testified that "it was generally felt that anything over 700 [dispositions] brought into question whether or not the judge was properly handling cases."²²³ He stated that "[i]f you're well over 700 [dispositions], you know, if you're doing 1,000, and I think that's almost *prima facie* evidence that you're not doing a good job and you should be looked at."²²⁴

²¹⁸ Social Security Administration, Policy Interpretation Ruling Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements (1996), available at http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR96-07-di-01.html.

²¹⁹ Cristaudo interview, *supra* note 8 at 9.

²²⁰ *Id.* at 93, 94.

²²¹ *Id.* at 45, 46

²²² See *Oversight of Rising Social Security Disability Claims and the Role of Administrative Law Judges Before the Subcomm. on Energy Policy, Health Care and Entitlements of the H. Comm. on Oversight and Government Reform*, 113th Cong. (June 27, 2013).

²²³ Bice interview, *supra* note 84 at 18.

²²⁴ Bede interview, *supra* note 17 at 20.

However, while he was CALJ, Mr. Cristaudo generally gave ALJs with extremely high allowance rates or total numbers of dispositions the benefit of the doubt, testifying “I really think they were just more efficient in terms of looking at their files,” and “I assume[d] they were just reading faster.”²²⁵

Question: So you assumed the judge doing over 1,000 cases was a fast reader?

Mr. Cristaudo: Yeah, yeah, or had some other efficiencies that I was not aware of.

Question: Okay. When you were chief ALJ, were you ever concerned that one of your judges was allowing too many people onto the program?

Mr. Cristaudo: No.

Mr. Cristaudo’s lack of any concern is testament to the agency’s failure to be an effective steward of disability programs since more than 20 percent of ALJs allowed benefits in at least 85 percent of their decisions when he was CALJ.²²⁶ These ALJs, by themselves, placed 637,115 individuals on a federal disability program between 2005 and 2013, at a total cost of more than \$190 billion.²²⁷

According to former CALJ Cristaudo’s testimony, the agency did not have the resources to monitor ALJ compliance with SSA policy while he was CALJ.²²⁸ However, there is also reason to believe that the agency was singularly focused on the quantity of cases processed, such that ensuring ALJs adhered to the requirements in evaluating claimants’ disability files was of relatively minor importance. Disciplining an ALJ for issuing boilerplate decisions or failing to consider all the evidence before awarding benefits would have meant losing that ALJ’s ability to decide his or her caseload for a period of time, and would have added to the backlog. As demonstrated by the three case studies in this report, even when the agency had evidence of ALJs violating agency policies, the agency refused to take any meaningful action. Given the agency’s failure to take appropriate action in these cases, a lack of appropriate resources seems like a convenient excuse for failing to monitor ALJ compliance with the law.

The agency’s general ambivalence about quality decision-making seems the likely explanation for why CALJ Cristaudo was unfamiliar with many ALJs who had extremely high allowance rates and high disposition numbers when he was CALJ.²²⁹ For example, CALJ Cristaudo testified that he was unaware of the large disposition numbers or allowance rates of

²²⁵ See Cristaudo interview, *supra* note 8 at 42.

²²⁶ See *supra* note 15.

²²⁷ *Id.*

²²⁸ See Cristaudo interview, *supra*, note 8 at 18.

²²⁹ *Id.* at 115-123.

most of the agency's most problematic "red flag" ALJs.²³⁰ CALJ Cristaudo testified that he did not remember any discussions about whether any ALJs were deciding too many cases without holding hearings while he was CALJ.²³¹ CALJ Cristaudo also testified that he never attempted to discipline an ALJ for failing to issue decisions supported by the evidence, but that he did discipline an ALJ who "refused to move his cases on a timely basis."²³²

Focused Reviews Show Problematic Patterns With High Allowance ALJs

A 2012 SSA internal report confirmed a "strong relationship between production levels and decision quality on allowances. As ALJ production increases, the general trend for decision quality is to go down."²³³ In 2011, the SSA Office of Disability Adjudication and Review (ODAR) finally began reviewing the decisions and adjudication processes of particular ALJs to determine, in large part, if the ALJs' decisions were compliant with SSA policy. The focused reviews were conducted by senior attorneys within the Office of Disability Adjudication and Review.²³⁴ In determining whom to select for focused reviews, the agency considers whether the ALJ is compliant with SSA policies, factoring in high disposition outputs, high allowance rates, and high numbers of on-the-record decisions as causes for concern.²³⁵ To date, 48 ALJs have been subject to an agency focused review.

Of the focused reviews received by the Committee, 30 were of ALJs who had total allowance rates in excess of 75 percent between 2005 and 2013. Of the 30 ALJs, 27 have been deciding cases since at least 2005. After a careful analysis of these focused reviews, some disturbing trends became evident.

Of the 30 judges with allowance rates greater than 75 percent, 21 focused reviews indicated that the ALJ had problems interacting with or using vocational experts (VEs). VEs are important components of the adjudication process because they offer testimony about the type of work a claimant can perform, given the claimants' limitations.²³⁶ Some of the reviewed ALJs never questioned a VE,²³⁷ while other ALJs asked inappropriate questions to the VE.²³⁸

Another trend evident from the focused reviews is that high allowance ALJs often fail to properly analyze the Residual Functional Capacity (RFC) of claimants. The RFC is defined as "the most [a claimant] can still do despite [his or her] limitations."²³⁹ Proper RFC analysis is crucial in determining whether a claimant is capable of obtaining employment. According to the focused reviews, at least 19 of the 30 ALJs made improper RFC evaluations.²⁴⁰

²³⁰ See Cristaudo interview, *supra* note 8 at 124.

²³¹ *Id.* at 91.

²³² *Id.* at 111-13.

²³³ Production Levels and Decision Quality (Sept. 7, 2012) [Request 4 – 00001-5].

²³⁴ See Bice interview, *supra* note 84 at 155.

²³⁵ *Id.* at 48-49.

²³⁶ SOCIAL SECURITY, BECOMING A VOCATIONAL EXPERT, <http://www.socialsecurity.gov/appeals/ve.html#a0=1>.

²³⁷ See focused review of ALJ Timothy Trost (Nov. 2012) [14th Production – 000270], *see also*, focused review of ALJ David Carstetter (Oct. 2012) [14th production – 000276].

²³⁸ See focused review of ALJ W. Baldwin Ogden (Sep. 23, 2013) [14th Production – 000417], *see also*, focused review of ALJ Ronald Bosch (May 5, 2014) [14th Production – 000203].

²³⁹ 20 C.F.R. § 416.945, *see also* http://www.socialsecurity.gov/OP_Home/cfr20/416/416-0945.htm.

²⁴⁰ See *supra* note 20.

Additionally, ALJs with high allowance rates often improperly evaluate cases where the claimant has a history of drug addiction or alcoholism (DAA). Of the 30 ALJs subject to a focus review, at least 11 of the 30 ALJs improperly evaluated DAA. SSA policy indicates that “if drug addiction or alcoholism is a contributing factor material to the determination of [a claimant’s] disability, [the ALJ] will not find [the claimant] disabled.”²⁴¹ ALJs who award benefits to claimants with a history of drug abuse or alcoholism without addressing those issues in the statement are likely allowing individuals onto disability contrary to program requirements.

The focused reviews also show a pattern that some high allowance ALJs tend to use boilerplate language or copy and paste language from the claimant representative’s briefs directly into their decision.²⁴² The attorneys reviewing ALJs decisions indicated that six ALJs used boilerplate language in their decisions. At least one ALJ stated that he relies on the claimant representative to do “95% of the work” in developing the case record.²⁴³

VI. Oversight Efforts Had Positive Effect, But More Agency Progress Needed

As previously discussed, at an Oversight and Government Reform Committee hearing in June 2013, several ALJs testified that the agency created a culture in which quality decision-making did not matter, and ALJs were evaluated almost entirely on how many cases they processed.²⁴⁴ According to many ALJs, the agency’s production goals are inconsistent with ALJs’ ability to properly consider the entire record prior to issuing decisions.²⁴⁵ The evidence suggests that as a consequence of the agency’s overwhelming focus on speedy decisions, due process and accurate decision-making have been largely neglected.

In May 2011, the *Wall Street Journal* began publishing a series of articles detailing significant problems within federal disability programs, with a particular focus on ALJ Daugherty’s excessive allowance rate and large number of annual dispositions, and widespread waste, fraud, abuse, and mismanagement in Puerto Rico.²⁴⁶ Prior to the spring of 2011, the agency only scrutinized ALJs if they failed to process cases quickly enough. The agency’s overarching focus on processing speed likely fostered an environment that made the corruption with ALJ Daugherty and throughout Puerto Rico less detectable.

²⁴¹ See HALLEX I-2-2-99, available at http://ssa.gov/OP_Home/hallex/I-02/I-2-2-99.html, see also 223(d)(2)(c) of the Social Security Act.

²⁴² See Draft: Report, *supra* note 161 at 000074.

²⁴³ Focused review of ALJ Gerald Krafur (Mar. 7, 2014) [Request 1 – Supp Prod 000447] at 000450.

²⁴⁴ See *Oversight of Rising Social Security Disability Claims and the Role of Administrative Law Judges*, H. Subcomm. on Energy Policy, Health Care & Entitlements of the H. Comm. on Oversight and Government Reform. (June 27, 2013).

²⁴⁵ *Id.*

²⁴⁶ See, Damien Paletta, *Disability-Claim Judge Has Trouble Saying ‘No’*, WALL ST. J., May 19, 2011, <http://online.wsj.com/news/articles/SB10001424052748704681904576319163605918524>, See also Damian Paletta, *Puerto Rico Disability Claims Probed*, WALL ST. J., Sep. 12, 2011, <http://online.wsj.com/news/articles/SB10001424053111903532804576564543481258206>.

RCALJ Bede testified that ALJs with extremely high allowance rates was “not something that we came to grips with as an organization very quickly.”²⁴⁷ Although RCALJ Bede testified that RCALJs had limited power to deal with ALJs who were likely allowing benefits inappropriately, he testified that the agency had tools available, such as “putting someone on administrative leave while you did an investigation.”²⁴⁸

Given the information obtained about ALJ Taylor and ALJ Bridges from RCALJ Bede’s testimony, the Committee sent a letter to Acting Commissioner Colvin on December 19, 2013, requesting that the agency place both ALJ Bridges and ALJ Taylor on unpaid administrative leave while the agency formally evaluated the quality of their decisions.²⁴⁹ Acting Commissioner Colvin responded that the agency lacks the authority to place any ALJ on unpaid administrative leave and that the Administrative Procedure Act requires that ALJs receive their full salary and benefits until “good cause [is] established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.”²⁵⁰

However, the agency has authority to place ALJs on paid administrative leave, which would prevent ALJs such as ALJ Bridges and ALJ Taylor from erroneously awarding tens, or hundreds, of millions of dollars in additional benefits until the Merit Systems Protection Board makes a ruling. Despite the continued high allowance rates of both ALJ Bridges and ALJ Taylor and two focused reviews of their decisions both showing significant problems and errors in their decision-making, the agency still refuses to take steps to remove them as ALJs.

Although the agency continues to allow many ALJs to rubber stamp claimants onto disability programs without consequence, the agency took two positive steps in response to the *Wall Street Journal* reporting. First, after the *Wall Street Journal* articles, the agency initiated focused reviews to monitor whether ALJ decisions were policy complaint and reasoned. Second, as a way to reduce the inappropriate and unlawful decisions being handed down by ALJs with excessive numbers of dispositions, the agency limited the number of annual dispositions each ALJ could be assigned.²⁵¹ For fiscal year 2012, the agency set the cap at 1,200 dispositions a year.²⁵² For fiscal year 2013, the cap was lowered to 960 dispositions a year, and for fiscal year 2014, the cap was further reduced to 840 dispositions a year.²⁵³ According to former CALJ Cristaudo, the agency acted only after the *Wall Street Journal* brought negative attention to the programs:

[ALJs with high dispositions] was not something that was hidden. I mean, this was obvious. I mean, there was testimony before Congress about these high numbers. The Advisory Board had been talking about this. The commissioners had talked about it. I mean, it wasn't like something that nobody knew.

²⁴⁷ See Bede interview, *supra* note 17 at 27.

²⁴⁸ *Id.* at 131.

²⁴⁹ Letter from Rep. Darrell Issa, Chairman, H. Comm. on Oversight and Government Reform, et al. to Carolyn Colvin, Acting Commissioner, Social Security Administration (Dec. 19, 2013).

²⁵⁰ Letter from Carolyn Colvin, Acting Commissioner, Social Security Administration, to Rep. Darrell Issa, Chairman, H. Comm. on Oversight and Government Reform (Mar. 10, 2014).

²⁵¹ See Bice interview, *supra* note 84 at 101-02; See also Bede interview, *supra* note 17 at 29.

²⁵² See Bice interview, *supra* note at 101.

²⁵³ *Id.* at 102-04.

Everybody knew. Nobody had this idea about just cut that number, just limit that number. When the Wall Street Journal article came out, I think there was a feeling that, well, we have to do something. And they took that action.²⁵⁴

As Table 5 shows, ALJs placed over 3.2 million individuals on either SSDI or SSI between 2005 and 2013 with an overall allowance rate equal to 65.8 percent during this period. The national allowance rate for ALJs has decreased over the past four years, from 70.5 percent in 2009 to 55.5 percent in 2013. This phenomenon is likely the result of several factors, including:

- The economic recession and the weak recovery, combined with the perceived ease of gaining benefits in federal disability programs, has led many individuals who are not disabled to apply for benefits.²⁵⁵
- The agency’s decision to cap the number of dispositions assigned to ALJs since ALJs with large numbers of dispositions were also likely to have high allowance rates.
- Public attention and congressional oversight of ALJs with extremely high allowance rates and the publication of ALJ adjudication data for the first time in 2010²⁵⁶ likely discouraged many ALJs from approving nearly every claimant for benefits.

Table 5: Allowance Rate Over Time

Fiscal Year	Decisions	Allowances	Allowance Rate
2005	446,681	321,149	71.9%
2006	478,114	342,876	71.7%
2007	463,956	332,708	71.7%
2008	454,272	323,868	71.3%
2009	521,403	367,611	70.5%
2010	585,855	393,516	67.2%
2011	629,291	393,110	62.5%
2012	646,809	373,343	57.8%
2013	638,063	354,282	55.5%
Total ('05-'13)	4,864,444	3,202,463	65.8%

The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJ decision data from between fiscal year 2005 and fiscal year 2013. The ‘Allowance Rate’ was obtained by dividing the ‘Allowances’ column by the ‘Decisions’ column.

²⁵⁴ See Cristaudo interview, *supra* note 8 at 47-48.

²⁵⁵ See Chana Joffe-Walt, *Unfit for Work: the startling rise of disability in America*, NATIONAL PUBLIC RADIO, <http://apps.npr.org/unfit-for-work/> (last visited May 29, 2013).

²⁵⁶ Archived Public Data Files, FY 2010, ALJ Disposition Data (Cumulative 9/26/09 through 9/24/10) http://www.ssa.gov/appeals/DataSets/archive/archive_data_reports.html.

The large decline in the national ALJ allowance rate *after the Wall Street Journal* articles and the publication of ALJ allowance rates is further evidence of a long-standing and systemic problem in the disability appeals process. The agency informed the Committee that the agency failed to collect ALJ adjudication data until 2005. Given the high, relatively stable average allowance rates from 2005 through 2009, it seems likely that ALJs, en masse, were also awarding benefits inappropriately prior to 2005 as well.

Table 6: Magnitude of the Problem From 2005 to 2013

Correct National ALJ Allowance Rate	People Inappropriately Put on Disability	Inappropriate ALJ Spending on Disability
30 percent	1.743 million	\$523 Billion
35 percent	1.500 million	\$450 Billion
40 percent	1.257 million	\$377 Billion
45 percent	1.013 million	\$304 Billion
50 percent	770,000	\$231 Billion
55 percent	527,000	\$158 Billion
60 percent	284,000	\$85 Billion

Note: The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJ decision data from between fiscal year 2005 and fiscal year 2013. Between 2005 and 2013, SSA ALJs decided 4,864,444 cases and awarded benefits in 3,202,463, or 65.8 percent, of their cases. This table shows the number of these 4,864,444 people who would not have been placed on disability for a variety of different overall allowance rates. The final column shows the amount of excess spending, using an estimate of \$300,000 per allowance.

As Table 5 showed, the overall ALJ allowance rate between 2005 and 2013 was about 66 percent. While it is inappropriate to assign a “correct” allowance rate to any particular ALJ, particularly since there is a subjective element to disability determinations, policy compliant decisions would result in a range of appropriate allowance rates. Table 6 shows the number of people inappropriately placed on disability and the corresponding amount of inappropriate government spending for a different range of national ALJ allowance rates. For example, assume that by following the law and issuing policy compliant decisions, the national ALJ allowance rate should have been 50 percent of total ALJ decisions between 2005 and 2013. Under that assumption, ALJs inappropriately placed about 770,000 individuals, on net, onto SSDI and SSI at a cost of \$231 billion, between 2005 and 2013. If the best review of the evidence yields an appropriate national allowance rate of 30 percent, ALJs inappropriately placed more than 1.7 million individuals onto disability between 2005 and 2013 at a cost of over half a trillion dollars.

The rapid growth in the number of individuals enrolled in disability is one of the most pressing problems for federal policymakers to confront. First, it is well established that the growth in disability programs is a major contributor to the decline in the labor force participation rate.²⁵⁷ Second, individuals without genuine disabilities who have gained access to the program

²⁵⁷ See James Sherk, *Not Looking for Work: Why Labor Force Participation Has Fallen During the Recession*. HERITAGE FOUNDATION, (Sep. 5, 2013) <http://www.heritage.org/research/reports/2013/09/not-looking-for-work-why-labor-force-participation-has-fallen-during-the-recession>, see also Joe Weisenthal, *Read Goldman’s Top Economist On Why The Labor Force Participation Rate Won’t Keep Plunging*, BUSINESS INSIDER, (May 4, 2014,

because of a fundamentally flawed process harm both taxpayers and the truly disabled. Individuals with disabilities that prevent them from working must wait longer to receive benefits and they are at risk of large benefit cuts because of the projected bankruptcy of the SSDI trust fund in about two years.²⁵⁸ Fundamental fairness requires that Congress consider measures to increase accountability and transparency in the disability process and properly evaluate individuals who have been placed on disability programs by red flag ALJs, to ensure that only the truly disabled are receiving benefits through federal disability programs.

8:56 AM) <http://www.businessinsider.com/goldman-on-the-labor-force-participation-rate-2014-5>, see also Zach Pandl, *Another look at disability and labor force participation*, (April 7, 2014) <http://blog.columbiamanagement.com/another-look-at-disability-and-participation>.

²⁵⁸ SOCIAL SECURITY ADMINISTRATION, 2012 ANNUAL REPORT OF THE BOARD OF TRUSTEES OF THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE AND FEDERAL DISABILITY INSURANCE TRUST FUNDS (2012), available at <http://www.ssa.gov/oact/TRSUM/index.html>; THE CONGRESSIONAL BUDGET OFFICE, 2012 LONG-TERM PROJECTIONS FOR SOCIAL SECURITY: ADDITIONAL INFORMATION (2012), available at <http://www.cbo.gov/publication/43648>.

Appendix

Table 7: Decision Data for ALJs with Allowance Rates in Excess of 85 Percent

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Brickner, Paul	1,425	1,425	1,425	100.0%	\$427,500,000
Garmon, Ollie	351	351	339	100.0%	\$105,300,000
Pucci, Louis J.	2,474	2,470	2,350	99.8%	\$741,000,000
DeBord, Michael K.	170	169	34	99.4%	\$50,700,000
Krafsur, Gerald I.	6,033	5,977	224	99.1%	\$1,793,100,000
Wieman, F. Joseph	841	833	352	99.0%	\$249,900,000
Daugherty, David B.	8,533	8,413	4,184	98.6%	\$2,523,900,000
Wilborn, Ralph	269	264	51	98.1%	\$79,200,000
Oboler, Alan D	220	215	217	97.7%	\$64,500,000
Smith, Manny	3,672	3,585	2,198	97.6%	\$1,075,500,000
Bleecher, Arthur B.	424	413	5	97.4%	\$123,900,000
Hooper, Joe R.	712	691	217	97.1%	\$207,300,000
Sampson, Victor	601	582	54	96.8%	\$174,600,000
Santiago, Jose J	822	795	375	96.7%	\$238,500,000
Lawwill, James J	2,311	2,234	363	96.7%	\$670,200,000
del Valle, Manuel	5,010	4,843	1,122	96.7%	\$1,452,900,000
Bodley, John M.	815	786	154	96.4%	\$235,800,000
Mills, Myron D.	2,054	1,980	1,811	96.4%	\$594,000,000
Powell, Kenneth M.	1,075	1,036	365	96.4%	\$310,800,000
Feiner, Jerome J.	1,202	1,156	669	96.2%	\$346,800,000
Kuzmack, Nicholas T.	5,285	5,079	1,295	96.1%	\$1,523,700,000
Foley, Patrick J	4,461	4,282	557	96.0%	\$1,284,600,000
Vaughn, William C.	1,681	1,610	228	95.8%	\$483,000,000
Burke, James A.	7,444	7,126	2,243	95.7%	\$2,137,800,000
Love, Verner R.	1,751	1,674	658	95.6%	\$502,200,000
Halpern, Joseph	1,748	1,666	664	95.3%	\$499,800,000
Ward, Robert E.	3,366	3,208	171	95.3%	\$962,400,000
Bridges, Charles	15,787	15,037	6,983	95.2%	\$4,511,100,000
Newton, Jr., Francis C.	1,949	1,853	329	95.1%	\$555,900,000
Gonzalez, Alberto E.	3,392	3,222	447	95.0%	\$966,600,000
Hammond, Glenn B.	1,890	1,793	423	94.9%	\$537,900,000
Craig, Joyce Krutick	1,156	1,096	267	94.8%	\$328,800,000
Hubbard, David T	3,412	3,233	1,331	94.8%	\$969,900,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Crickman, John R.	2,013	1,906	175	94.7%	\$571,800,000
Mc Afoos III, Louis G	4,525	4,278	1,476	94.5%	\$1,283,400,000
Dring Jr., John P.	365	345	215	94.5%	\$103,500,000
Jewell, W. Gary	6,942	6,556	3,263	94.4%	\$1,966,800,000
Carstetter, David W.	4,277	4,030	927	94.2%	\$1,209,000,000
Chapman, Ronald L.	2,308	2,171	143	94.1%	\$651,300,000
Batson, Thomas F.	7,568	7,118	3,689	94.1%	\$2,135,400,000
Behuniak, Peter Z.	2,648	2,490	822	94.0%	\$747,000,000
LaBoda, Barry C.	2,533	2,381	476	94.0%	\$714,300,000
Alden, Nancy	3,848	3,612	1,489	93.9%	\$1,083,600,000
Taylor, II, Harry C.	8,770	8,227	5,982	93.8%	\$2,468,100,000
Zanaty, Edward S.	4,112	3,850	2,527	93.6%	\$1,155,000,000
Oliver, Henry	4,697	4,397	3,021	93.6%	\$1,319,100,000
De Pietro, Joseph F.	5,514	5,154	3,679	93.5%	\$1,546,200,000
Hood, John	749	700	165	93.5%	\$210,000,000
Hill-Maxion, Sanya	1,664	1,554	121	93.4%	\$466,200,000
Williams, Paul T.	3,938	3,672	387	93.2%	\$1,101,600,000
Molenda, Francis A.	1,518	1,415	143	93.2%	\$424,500,000
Piloseno, Jr., Daniel A	5,534	5,157	2,843	93.2%	\$1,547,100,000
Peyser, Richard	911	846	112	92.9%	\$253,800,000
Ravinski, Catherine	1,267	1,175	705	92.7%	\$352,500,000
Yoswein, Leonard E	2,794	2,588	882	92.6%	\$776,400,000
Palmer, George	1,011	936	361	92.6%	\$280,800,000
Stevens, Mitchell F.	3,438	3,182	1,949	92.6%	\$954,600,000
Morris, John R.	6,619	6,113	1,601	92.4%	\$1,833,900,000
Gormley III, Matthew J.	1,469	1,355	533	92.2%	\$406,500,000
Borowiec, Frank B.	897	827	223	92.2%	\$248,100,000
Due, Douglas R.	4,669	4,300	684	92.1%	\$1,290,000,000
White, Douglas G.	5,588	5,145	837	92.1%	\$1,543,500,000
Karpe, Richard	626	576	268	92.0%	\$172,800,000
Barker, Joseph V.	3,617	3,328	1,266	92.0%	\$998,400,000
Washington, Calvin	8,340	7,652	1,187	91.8%	\$2,295,600,000
Ramirez, Marta	762	699	75	91.7%	\$209,700,000
Johnston, Paul L	4,217	3,866	414	91.7%	\$1,159,800,000
Harrop Jr, Grenville W	3,201	2,932	408	91.6%	\$879,600,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
O'Bryan Jr., W. Howard	10,177	9,315	8,339	91.5%	\$2,794,500,000
Sherr, Norman A	819	749	38	91.5%	\$224,700,000
Gormley, Patricia M.	404	369	67	91.3%	\$110,700,000
Stark, Charles	1,879	1,716	165	91.3%	\$514,800,000
Storey, Peter B.	2,285	2,086	406	91.3%	\$625,800,000
Lobo, Patricia	3,222	2,940	592	91.2%	\$882,000,000
Blanton, Michael C.	1,662	1,516	586	91.2%	\$454,800,000
Tease, J. Edward	2,872	2,618	1,828	91.2%	\$785,400,000
Lanter, James E.	278	253	24	91.0%	\$75,900,000
Kelly III, John T.	3,025	2,748	752	90.8%	\$824,400,000
Kaplan, James M	217	197	26	90.8%	\$59,100,000
Anzalone, Kerry J.	2,278	2,067	194	90.7%	\$620,100,000
Francis Jr., Burt R.	2,011	1,820	113	90.5%	\$546,000,000
Quinones, Ramon E	6,082	5,499	1,911	90.4%	\$1,649,700,000
Conger, Jr., Paul S.	8,623	7,792	3,022	90.4%	\$2,337,600,000
Ryan, Robert P.	352	318	4	90.3%	\$95,400,000
Greenstein, Michael P	186	168	18	90.3%	\$50,400,000
Jackson, Jr., Robert T.	3,751	3,381	290	90.1%	\$1,014,300,000
Riley, Eve M.	4,833	4,356	3,493	90.1%	\$1,306,800,000
Swihart, Steven T.	233	210	35	90.1%	\$63,000,000
Bork, Nathan A.	870	784	208	90.1%	\$235,200,000
Guzzo, Fred J.	453	408	31	90.1%	\$122,400,000
Poverstein, Emanuel	1,353	1,218	343	90.0%	\$365,400,000
Malakoff, J. Frederick	827	744	171	90.0%	\$223,200,000
Freedman, Gerald A.	4,066	3,656	441	89.9%	\$1,096,800,000
Heavrin, T. Christopher	1,591	1,430	96	89.9%	\$429,000,000
Miller, J. Cleve	1,044	937	329	89.8%	\$281,100,000
Mccollom, William G.	458	411	295	89.7%	\$123,300,000
Fowler, Wendell C	3,847	3,450	2,255	89.7%	\$1,035,000,000
Graham, E. Norman	4,805	4,309	357	89.7%	\$1,292,700,000
Benagh, Christine P.	3,298	2,957	799	89.7%	\$887,100,000
Holland, Harry T.	415	372	149	89.6%	\$111,600,000
Singh, Jag Jit	587	526	165	89.6%	\$157,800,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Williams, Jr., Major	3,057	2,736	565	89.5%	\$820,800,000
Embree, Glenn M.	3,846	3,440	321	89.4%	\$1,032,000,000
McCully, Richard P.	4,092	3,658	1,168	89.4%	\$1,097,400,000
Ogden, W. Baldwin	4,734	4,225	967	89.2%	\$1,267,500,000
Meyer, John E.	1,686	1,504	260	89.2%	\$451,200,000
De Bernardis, Craig	3,489	3,112	177	89.2%	\$933,600,000
Ardery, Charles W.	3,059	2,727	144	89.1%	\$818,100,000
O'Hara, Hanford	2,491	2,220	613	89.1%	\$666,000,000
Lazarus, Robert J	5,209	4,642	710	89.1%	\$1,392,600,000
Brooks, Allyn	3,393	3,019	1,195	89.0%	\$905,700,000
Kendall, Paul S.	1,212	1,078	117	88.9%	\$323,400,000
Morgan, Katherine	4,504	4,002	757	88.9%	\$1,200,600,000
Bryant, Leroy C.	2,258	2,004	73	88.8%	\$601,200,000
Krainess, Donald P.	1,951	1,730	49	88.7%	\$519,000,000
Sax, Carol A.	1,629	1,444	730	88.6%	\$433,200,000
Vanderhoef, Jerry M.	1,943	1,722	630	88.6%	\$516,600,000
Hoover, E. Russell	6,585	5,832	596	88.6%	\$1,749,600,000
Rucker, James R.	367	325	128	88.6%	\$97,500,000
Brown, James J.	1,635	1,445	375	88.4%	\$433,500,000
Van slate, Jean	788	696	141	88.3%	\$208,800,000
Davis, Deborah S.	3,783	3,338	943	88.2%	\$1,001,400,000
Trost, Timothy J	2,589	2,284	218	88.2%	\$685,200,000
Gill, Robert	3,267	2,881	854	88.2%	\$864,300,000
Schwartz, Roger	2,555	2,253	381	88.2%	\$675,900,000
Armitage, Paul C.	3,943	3,476	720	88.2%	\$1,042,800,000
Corrigan, Brian	2,083	1,836	109	88.1%	\$550,800,000
Engel, David W.	7,029	6,189	2,509	88.0%	\$1,856,700,000
Augustine, Patrick B.	2,211	1,946	1,475	88.0%	\$583,800,000
Gray, William O.	4,520	3,977	771	88.0%	\$1,193,100,000
Fraguna, Joseph R	5,844	5,139	2,776	87.9%	\$1,541,700,000
Kennedy, Thomas P.	232	204	65	87.9%	\$61,200,000
Buel, Sr., Toby J.	4,630	4,070	67	87.9%	\$1,221,000,000
Albrecht Jr, Warren H	2,468	2,169	673	87.9%	\$650,700,000
Waldman, Ronald L	2,283	2,004	405	87.8%	\$601,200,000
Robinson, Thomas	3,207	2,814	325	87.7%	\$844,200,000
Williams, H. Scott	2,391	2,097	595	87.7%	\$629,100,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Morgan, E. Lee	4,951	4,341	305	87.7%	\$1,302,300,000
Harvey, Rosemary	559	490	256	87.7%	\$147,000,000
Wilcox, J. M.	1,966	1,721	798	87.5%	\$516,300,000
Blaine, Kent R.	1,199	1,049	352	87.5%	\$314,700,000
Gautier, Jose R	4,347	3,803	1,511	87.5%	\$1,140,900,000
Pickett, John J	3,228	2,824	330	87.5%	\$847,200,000
Allen, Denny	1,949	1,705	270	87.5%	\$511,500,000
Pedrick, Jr., John L.	686	600	217	87.5%	\$180,000,000
Herbert, William S.	3,563	3,113	270	87.4%	\$933,900,000
Connor, Carol A	2,934	2,563	244	87.4%	\$768,900,000
Adamczyk, Joanne E.	2,897	2,530	505	87.3%	\$759,000,000
Villere Jr., Plauche F.	6,596	5,759	951	87.3%	\$1,727,700,000
Shelton, Gary R	7,206	6,291	748	87.3%	\$1,887,300,000
Stagno, Linda A.	2,420	2,111	387	87.2%	\$633,300,000
Barezky, Bonny S.	5,910	5,154	538	87.2%	\$1,546,200,000
Clark, Halstead H.	547	477	88	87.2%	\$143,100,000
Gajewski, Leonard J	773	674	209	87.2%	\$202,200,000
Boltz, Jon D.	2,999	2,613	56	87.1%	\$783,900,000
Biloon, Millard L.	4,721	4,112	672	87.1%	\$1,233,600,000
Rodnite, Andrew John	502	437	191	87.1%	\$131,100,000
Lyman, Phillip C.	4,141	3,601	649	87.0%	\$1,080,300,000
McGinn, V. Paul	4,756	4,133	134	86.9%	\$1,239,900,000
De bellis, Frank M	204	177	52	86.8%	\$53,100,000
D'Alessandro, James J.	4,605	3,995	1,415	86.8%	\$1,198,500,000
Barker, John R.	4,880	4,233	727	86.7%	\$1,269,900,000
Robison, Robert S.	422	366	174	86.7%	\$109,800,000
Gehring, John F.	3,508	3,042	1,027	86.7%	\$912,600,000
Cahn, Arthur S	3,519	3,049	621	86.6%	\$914,700,000
Galvan, Oscar G.	2,027	1,755	93	86.6%	\$526,500,000
Lee, Gary J.	4,424	3,822	745	86.4%	\$1,146,600,000
Soto, Eduardo	3,701	3,196	171	86.4%	\$958,800,000
White, Charlotte N	4,011	3,461	550	86.3%	\$1,038,300,000
Duncan, Gene	3,181	2,744	838	86.3%	\$823,200,000
Anderson, G. Roderic	4,198	3,620	1,054	86.2%	\$1,086,000,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Ciaravino, James R.	1,706	1,471	868	86.2%	\$441,300,000
Paro, Henry M.	331	285	77	86.1%	\$85,500,000
Weinberg, Maryellen	2,848	2,451	556	86.1%	\$735,300,000
Larocca, Elia M.	3,001	2,580	352	86.0%	\$774,000,000
Gautier, Rosael	748	643	5	86.0%	\$192,900,000
Wesker, Barry M.	1,122	964	136	85.9%	\$289,200,000
Harap, Frederick	1,420	1,219	362	85.8%	\$365,700,000
Moore, C. F.	4,745	4,069	2,660	85.8%	\$1,220,700,000
Glazer, Eric L.	3,064	2,626	217	85.7%	\$787,800,000
Davidson, Joseph	2,789	2,389	501	85.7%	\$716,700,000
Falkenstein, C. Wayne	2,170	1,858	538	85.6%	\$557,400,000
Shapiro, Mark H.	767	656	88	85.5%	\$196,800,000
Givens, Thomas P	620	530	192	85.5%	\$159,000,000
Crawley, Brian J	2,568	2,195	272	85.5%	\$658,500,000
Baker, Karen H.	2,369	2,023	377	85.4%	\$606,900,000
Mandry, Maria Teresa	2,466	2,105	94	85.4%	\$631,500,000
Loughry, Daniel F.	2,241	1,912	465	85.3%	\$573,600,000
Burton, Alfred	1,230	1,048	353	85.2%	\$314,400,000
Lawson, William	6,310	5,375	1,631	85.2%	\$1,612,500,000
Sparks, James A	6,949	5,914	2,788	85.1%	\$1,774,200,000
Total	562,045	509,062	154,977	90.6%	\$152,718,600,000

Note: The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJs' decision data from between fiscal year 2005 and fiscal year 2013. The 'Allowance' column includes both fully favorable awards and partially favorable awards. On-the-record allowances are allowances made without a hearing. The 'Allowance Rate' was obtained by dividing the 'Allowances' column by the 'Decisions' column. This data is sorted by allowance rates. Total spending on allowances was estimated by multiplying the number of allowances and \$300,000 – the estimated total federal government expenditure of an individual gaining eligibility for a federal disability program.

Table 8: Decision Data for ALJs with Allowance Rates in Excess of 85 Percent

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Adamczyk, Joanne E.	2,897	2,530	505	87.3%	\$759,000,000
Albrecht Jr, Warren H	2,468	2,169	673	87.9%	\$650,700,000
Alden, Nancy	3,848	3,612	1,489	93.9%	\$1,083,600,000
Allen, Denny	1,949	1,705	270	87.5%	\$511,500,000
Anderson, G. Roderic	4,198	3,620	1,054	86.2%	\$1,086,000,000
Anzalone, Kerry J.	2,278	2,067	194	90.7%	\$620,100,000
Ardery, Charles W.	3,059	2,727	144	89.1%	\$818,100,000
Armitage, Paul C.	3,943	3,476	720	88.2%	\$1,042,800,000
Augustine, Patrick B.	2,211	1,946	1,475	88.0%	\$583,800,000
Baker, Karen H.	2,369	2,023	377	85.4%	\$606,900,000
Barezky, Bonny S.	5,910	5,154	538	87.2%	\$1,546,200,000
Barker, John R.	4,880	4,233	727	86.7%	\$1,269,900,000
Barker, Joseph V.	3,617	3,328	1,266	92.0%	\$998,400,000
Batson, Thomas F.	7,568	7,118	3,689	94.1%	\$2,135,400,000
Behuniak, Peter Z.	2,648	2,490	822	94.0%	\$747,000,000
Benagh, Christine P.	3,298	2,957	799	89.7%	\$887,100,000
Biloon, Millard L.	4,721	4,112	672	87.1%	\$1,233,600,000
Blaine, Kent R.	1,199	1,049	352	87.5%	\$314,700,000
Blanton, Michael C.	1,662	1,516	586	91.2%	\$454,800,000
Bleecher, Arthur B.	424	413	5	97.4%	\$123,900,000
Bodley, John M.	815	786	154	96.4%	\$235,800,000
Boltz, Jon D.	2,999	2,613	56	87.1%	\$783,900,000
Bork, Nathan A.	870	784	208	90.1%	\$235,200,000
Borowiec, Frank B.	897	827	223	92.2%	\$248,100,000
Brickner, Paul	1,425	1,425	1,425	100.0%	\$427,500,000
Bridges, Charles	15,787	15,037	6,983	95.2%	\$4,511,100,000
Brooks, Allyn	3,393	3,019	1,195	89.0%	\$905,700,000
Brown, James J.	1,635	1,445	375	88.4%	\$433,500,000
Bryant, Leroy C.	2,258	2,004	73	88.8%	\$601,200,000
Buel, Sr., Toby J.	4,630	4,070	67	87.9%	\$1,221,000,000
Burke, James A.	7,444	7,126	2,243	95.7%	\$2,137,800,000
Burton, Alfred	1,230	1,048	353	85.2%	\$314,400,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Cahn, Arthur S	3,519	3,049	621	86.6%	\$914,700,000
Carstetter, David W.	4,277	4,030	927	94.2%	\$1,209,000,000
Chapman, Ronald L.	2,308	2,171	143	94.1%	\$651,300,000
Ciaravino, James R.	1,706	1,471	868	86.2%	\$441,300,000
Clark, Halstead H.	547	477	88	87.2%	\$143,100,000
Conger, Jr., Paul S.	8,623	7,792	3,022	90.4%	\$2,337,600,000
Connor, Carol A	2,934	2,563	244	87.4%	\$768,900,000
Corrigan, Brian	2,083	1,836	109	88.1%	\$550,800,000
Craig, Joyce Krutick	1,156	1,096	267	94.8%	\$328,800,000
Crawley, Brian J	2,568	2,195	272	85.5%	\$658,500,000
Crickman, John R.	2,013	1,906	175	94.7%	\$571,800,000
D'Alessandro, James J.	4,605	3,995	1,415	86.8%	\$1,198,500,000
Daugherty, David B.	8,533	8,413	4,184	98.6%	\$2,523,900,000
Davidson, Joseph	2,789	2,389	501	85.7%	\$716,700,000
Davis, Deborah S.	3,783	3,338	943	88.2%	\$1,001,400,000
De bellis, Frank M	204	177	52	86.8%	\$53,100,000
De Bernardis, Craig	3,489	3,112	177	89.2%	\$933,600,000
De Pietro, Joseph F.	5,514	5,154	3,679	93.5%	\$1,546,200,000
DeBord, Michael K.	170	169	34	99.4%	\$50,700,000
del Valle, Manuel	5,010	4,843	1,122	96.7%	\$1,452,900,000
Dring Jr., John P.	365	345	215	94.5%	\$103,500,000
Due, Douglas R.	4,669	4,300	684	92.1%	\$1,290,000,000
Duncan, Gene	3,181	2,744	838	86.3%	\$823,200,000
Embree, Glenn M.	3,846	3,440	321	89.4%	\$1,032,000,000
Engel, David W.	7,029	6,189	2,509	88.0%	\$1,856,700,000
Falkenstein, C. Wayne	2,170	1,858	538	85.6%	\$557,400,000
Fraguna, Joseph R	5,844	5,139	2,776	87.9%	\$1,541,700,000
Feiner, Jerome J.	1,202	1,156	669	96.2%	\$346,800,000
Foley, Patrick J	4,461	4,282	557	96.0%	\$1,284,600,000
Fowler, Wendell C	3,847	3,450	2,255	89.7%	\$1,035,000,000
Francis Jr., Burt R.	2,011	1,820	113	90.5%	\$546,000,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Freedman, Gerald A.	4,066	3,656	441	89.9%	\$1,096,800,000
Gajewski, Leonard J	773	674	209	87.2%	\$202,200,000
Galvan, Oscar G.	2,027	1,755	93	86.6%	\$526,500,000
Garmon, Ollie	351	351	339	100.0%	\$105,300,000
Gautier, Jose R	4,347	3,803	1,511	87.5%	\$1,140,900,000
Gautier, Rosael	748	643	5	86.0%	\$192,900,000
Gehring, John F.	3,508	3,042	1,027	86.7%	\$912,600,000
Gill, Robert	3,267	2,881	854	88.2%	\$864,300,000
Givens, Thomas P	620	530	192	85.5%	\$159,000,000
Glazer, Eric L.	3,064	2,626	217	85.7%	\$787,800,000
Gonzalez, Alberto E.	3,392	3,222	447	95.0%	\$966,600,000
Gormley III, Matthew J.	1,469	1,355	533	92.2%	\$406,500,000
Gormley, Patricia M.	404	369	67	91.3%	\$110,700,000
Graham, E. Norman	4,805	4,309	357	89.7%	\$1,292,700,000
Gray, William O.	4,520	3,977	771	88.0%	\$1,193,100,000
Greenstein, Michael P	186	168	18	90.3%	\$50,400,000
Guzzo, Fred J.	453	408	31	90.1%	\$122,400,000
Halpern, Joseph	1,748	1,666	664	95.3%	\$499,800,000
Hammond, Glenn B.	1,890	1,793	423	94.9%	\$537,900,000
Harap, Frederick	1,420	1,219	362	85.8%	\$365,700,000
Harrop Jr, Grenville W	3,201	2,932	408	91.6%	\$879,600,000
Harvey, Rosemary	559	490	256	87.7%	\$147,000,000
Heavrin, T. Christopher	1,591	1,430	96	89.9%	\$429,000,000
Herbert, William S.	3,563	3,113	270	87.4%	\$933,900,000
Hill-Maxion, Sanya	1,664	1,554	121	93.4%	\$466,200,000
Holland, Harry T.	415	372	149	89.6%	\$111,600,000
Hood, John	749	700	165	93.5%	\$210,000,000
Hooper, Joe R.	712	691	217	97.1%	\$207,300,000
Hoover, E. Russell	6,585	5,832	596	88.6%	\$1,749,600,000
Hubbard, David T	3,412	3,233	1,331	94.8%	\$969,900,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Jackson, Jr., Robert T.	3,751	3,381	290	90.1%	\$1,014,300,000
Jewell, W. Gary	6,942	6,556	3,263	94.4%	\$1,966,800,000
Johnston, Paul L	4,217	3,866	414	91.7%	\$1,159,800,000
Kaplan, James M	217	197	26	90.8%	\$59,100,000
Karpe, Richard	626	576	268	92.0%	\$172,800,000
Kelly III, John T.	3,025	2,748	752	90.8%	\$824,400,000
Kendall, Paul S.	1,212	1,078	117	88.9%	\$323,400,000
Kennedy, Thomas P.	232	204	65	87.9%	\$61,200,000
Krafsur, Gerald I.	6,033	5,977	224	99.1%	\$1,793,100,000
Krainess, Donald P.	1,951	1,730	49	88.7%	\$519,000,000
Kuzmack, Nicholas T.	5,285	5,079	1,295	96.1%	\$1,523,700,000
LaBoda, Barry C.	2,533	2,381	476	94.0%	\$714,300,000
Lanter, James E.	278	253	24	91.0%	\$75,900,000
Larocca, Elia M.	3,001	2,580	352	86.0%	\$774,000,000
Lawson, William	6,310	5,375	1,631	85.2%	\$1,612,500,000
Lawwill, James J	2,311	2,234	363	96.7%	\$670,200,000
Lazarus, Robert J	5,209	4,642	710	89.1%	\$1,392,600,000
Lee, Gary J.	4,424	3,822	745	86.4%	\$1,146,600,000
Lobo, Patricia	3,222	2,940	592	91.2%	\$882,000,000
Loughry, Daniel F.	2,241	1,912	465	85.3%	\$573,600,000
Love, Verner R.	1,751	1,674	658	95.6%	\$502,200,000
Lyman, Phillip C.	4,141	3,601	649	87.0%	\$1,080,300,000
Malakoff, J. Frederick	827	744	171	90.0%	\$223,200,000
Mandry, Maria Teresa	2,466	2,105	94	85.4%	\$631,500,000
Mc Afoos III, Louis G	4,525	4,278	1,476	94.5%	\$1,283,400,000
Mccollom, William G.	458	411	295	89.7%	\$123,300,000
McCully, Richard P.	4,092	3,658	1,168	89.4%	\$1,097,400,000
McGinn, V. Paul	4,756	4,133	134	86.9%	\$1,239,900,000
Meyer, John E.	1,686	1,504	260	89.2%	\$451,200,000
Miller, J. Cleve	1,044	937	329	89.8%	\$281,100,000
Mills, Myron D.	2,054	1,980	1,811	96.4%	\$594,000,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Molenda, Francis A.	1,518	1,415	143	93.2%	\$424,500,000
Moore, C. F.	4,745	4,069	2,660	85.8%	\$1,220,700,000
Morgan, E. Lee	4,951	4,341	305	87.7%	\$1,302,300,000
Morgan, Katherine	4,504	4,002	757	88.9%	\$1,200,600,000
Morris, John R.	6,619	6,113	1,601	92.4%	\$1,833,900,000
Newton, Jr., Francis C.	1,949	1,853	329	95.1%	\$555,900,000
Oboler, Alan D	220	215	217	97.7%	\$64,500,000
O'Bryan Jr., W. Howard	10,177	9,315	8,339	91.5%	\$2,794,500,000
Ogden, W. Baldwin	4,734	4,225	967	89.2%	\$1,267,500,000
O'Hara, Hanford	2,491	2,220	613	89.1%	\$666,000,000
Oliver, Henry	4,697	4,397	3,021	93.6%	\$1,319,100,000
Palmer, George	1,011	936	361	92.6%	\$280,800,000
Paro, Henry M.	331	285	77	86.1%	\$85,500,000
Pedrick, Jr., John L.	686	600	217	87.5%	\$180,000,000
Peyser, Richard	911	846	112	92.9%	\$253,800,000
Pickett, John J	3,228	2,824	330	87.5%	\$847,200,000
Piloseno, Jr., Daniel A	5,534	5,157	2,843	93.2%	\$1,547,100,000
Poverstein, Emanuel	1,353	1,218	343	90.0%	\$365,400,000
Powell, Kenneth M.	1,075	1,036	365	96.4%	\$310,800,000
Pucci, Louis J.	2,474	2,470	2,350	99.8%	\$741,000,000
Quinones, Ramon E	6,082	5,499	1,911	90.4%	\$1,649,700,000
Ramirez, Marta	762	699	75	91.7%	\$209,700,000
Ravinski, Catherine	1,267	1,175	705	92.7%	\$352,500,000
Riley, Eve M.	4,833	4,356	3,493	90.1%	\$1,306,800,000
Robinson, Thomas	3,207	2,814	325	87.7%	\$844,200,000
Robison, Robert S.	422	366	174	86.7%	\$109,800,000
Rodnite, Andrew John	502	437	191	87.1%	\$131,100,000
Rucker, James R.	367	325	128	88.6%	\$97,500,000
Ryan, Robert P.	352	318	4	90.3%	\$95,400,000
Sampson, Victor	601	582	54	96.8%	\$174,600,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Santiago, Jose J	822	795	375	96.7%	\$238,500,000
Sax, Carol A.	1,629	1,444	730	88.6%	\$433,200,000
Schwartz, Roger	2,555	2,253	381	88.2%	\$675,900,000
Shapiro, Mark H.	767	656	88	85.5%	\$196,800,000
Shelton, Gary R	7,206	6,291	748	87.3%	\$1,887,300,000
Sherr, Norman A	819	749	38	91.5%	\$224,700,000
Singh, Jag Jit	587	526	165	89.6%	\$157,800,000
Smith, Manny	3,672	3,585	2,198	97.6%	\$1,075,500,000
Soto, Eduardo	3,701	3,196	171	86.4%	\$958,800,000
Sparks, James A	6,949	5,914	2,788	85.1%	\$1,774,200,000
Stagno, Linda A.	2,420	2,111	387	87.2%	\$633,300,000
Stark, Charles	1,879	1,716	165	91.3%	\$514,800,000
Stevens, Mitchell F.	3,438	3,182	1,949	92.6%	\$954,600,000
Storey, Peter B.	2,285	2,086	406	91.3%	\$625,800,000
Swihart, Steven T.	233	210	35	90.1%	\$63,000,000
Taylor, II, Harry C.	8,770	8,227	5,982	93.8%	\$2,468,100,000
Tease, J. Edward	2,872	2,618	1,828	91.2%	\$785,400,000
Trost, Timothy J	2,589	2,284	218	88.2%	\$685,200,000
Van slate, Jean	788	696	141	88.3%	\$208,800,000
Vanderhoef, Jerry M.	1,943	1,722	630	88.6%	\$516,600,000
Vaughn, William C.	1,681	1,610	228	95.8%	\$483,000,000
Villere Jr., Plauche F.	6,596	5,759	951	87.3%	\$1,727,700,000
Waldman, Ronald L	2,283	2,004	405	87.8%	\$601,200,000
Ward, Robert E.	3,366	3,208	171	95.3%	\$962,400,000
Washington, Calvin	8,340	7,652	1,187	91.8%	\$2,295,600,000
Weinberg, Maryellen	2,848	2,451	556	86.1%	\$735,300,000
Wesker, Barry M.	1,122	964	136	85.9%	\$289,200,000
White, Charlotte N	4,011	3,461	550	86.3%	\$1,038,300,000
White, Douglas G.	5,588	5,145	837	92.1%	\$1,543,500,000
Wieman, F. Joseph	841	833	352	99.0%	\$249,900,000
Wilborn, Ralph	269	264	51	98.1%	\$79,200,000
Wilcox, J. M.	1,966	1,721	798	87.5%	\$516,300,000
Williams, H. Scott	2,391	2,097	595	87.7%	\$629,100,000

ALJ	Decisions	Allowances	On-the-Record Allowances	Allowance Rate	Total Spending on Allowances
Williams, Jr., Major	3,057	2,736	565	89.5%	\$820,800,000
Williams, Paul T.	3,938	3,672	387	93.2%	\$1,101,600,000
Yoswein, Leonard E	2,794	2,588	882	92.6%	\$776,400,000
Zanaty, Edward S.	4,112	3,850	2,527	93.6%	\$1,155,000,000
Total	562,045	509,062	154,977	90.6%	\$152,718,600,000

Note: The data in this table were computed using publicly available ALJ adjudication data plus data provided by SSA and represent ALJs' decision data from between fiscal year 2005 and fiscal year 2013. The 'Allowance' column includes both fully favorable awards and partially favorable awards. On-the-record allowances are allowances made without a hearing. The 'Allowance Rate' was obtained by dividing the 'Allowances' column by the 'Decisions' column. This data is sorted by the ALJs' last name. Total spending on allowances was estimated by multiplying the number of allowances and \$300,000 – the estimated total federal government expenditure of an individual gaining eligibility for a federal disability program.