

**STATEMENT OF
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DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS**

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Good evening, Chairman Miller, Ranking Member Michaud, and Members of the Committee. Thank you for the opportunity to discuss whistleblower claims at the Department of Veterans Affairs (VA). I am accompanied today by Dr. Edward Huycke, Deputy Medical Inspector for the Veterans Health Administration's (VHA) Office of the Medical Inspector.

Our core values at VA are Integrity, Commitment, Advocacy, Respect, and Excellence — "I CARE." To get to excellence, we rely on the integrity, experience, observations, insights, and recommendations of VA's front-line staff, those who work professionally and compassionately with Veterans each and every day. We value that input and rely on it to help us better serve Veterans. Clearly, we are deeply concerned and distressed about the allegations that employees who sought to report deficiencies were either ignored, or worse, intimidated into silence. Let me be clear, VA will not tolerate an environment where intimidation or suppression of reports occurs.

Leaders are responsible for establishing a workplace atmosphere in which employees are comfortable highlighting and sharing their successes—as well as identifying areas in which we can improve. Whether that means notifying managers and supervisors of isolated gaps or bringing attention to larger, systemic issues that impede excellence, it is important that all employees are encouraged to report deficiencies in care or services we provide to Veterans. Relatively simple issues that front-line staff may be aware of can grow into significantly larger problems if left unresolved. In the most serious cases, these problems can lead to and encourage improper and unethical actions.

Across VA, we expect workplace environments that protect the rights and enable full participation of all its employees. To that end, we have implemented biennial

Workplace Harassment Prevention and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) training for all 330,000+ employees VA-wide to ensure they are aware and educated on their rights and responsibilities in these areas. We also recognize that supervisors and managers bear a heightened responsibility in maintaining a fair, safe, and inclusive culture. Accordingly, five years ago VA implemented additional mandatory Equal Employment Opportunity (EEO), Diversity & Inclusion, and Conflict Management training for all VA executives, managers, and supervisors VA-wide. VA monitors compliance with this requirement on an on-going basis.

We expect employees to bring to the attention of their managers and supervisors shortcomings in the delivery of our services to Veterans, any perceived violations of law, rule or regulation, official wrongdoing, gross mismanagement, gross waste, fraud, abuse of authority, or any substantial and specific danger to public health or safety. Intimidation or retaliation against whistleblowers—or any employee who raises a hand to identify a legitimate problem, make a suggestion, or report what may be a violation of law, policy, or our core values—is absolutely unacceptable.

We all have a responsibility for enforcing appropriate workplace behavior. Protecting employees from reprisal is a moral obligation of VA leaders, a statutory obligation, and a priority for this Department. We will take prompt action to hold accountable those engaged in conduct identified as reprisal for whistleblowing, and that action includes appropriate disciplinary action. VA notifies all employees of their Whistleblower Protection rights annually in the Secretary's EEO, Diversity & Inclusion, No FEAR Act, and Whistleblower Protection Policy Statement.¹ We strongly encourage all supervisors to review this policy statement with their employees and ensure their full understanding. VA also conducts annual site visits to select facilities in the field to review their compliance with these policies and educate the leadership in these critical areas. Recently, we have taken steps to strengthen and expand the scope of these reviews and technical assistance visits.

Employees have several avenues of redress if they are confronted with whistleblower reprisal. Employees may file a complaint with the Office of Special

¹ Available at <http://www.diversity.va.gov/policy/statement.aspx>.

Counsel (OSC) or appeal directly to the Merit Systems Protection Board. Employees are also always free to report whistleblower reprisal to a VA management official, to VA's independent Office of Inspector General (OIG), and to the Congress. VA emphasizes the importance of employees bringing their concerns forward and strongly encourages these actions. Each concern is taken seriously and addressed to the best extent possible.

We would like to address incidents where the OSC asks the Secretary of Veterans Affairs to conduct investigations into whistleblower cases about the Department. These are investigations conducted pursuant to 5 U.S.C. § 1213 and require VA to investigate and prepare a report of its investigation into the whistleblower disclosures. We take these investigations very seriously and they are undertaken immediately, as required by law. First, VA leaders are reminded of the mandate to protect whistleblowers from retaliation and other prohibited personnel practices. VA initially interviews the whistleblower, and follows up with him/her as often as necessary. Then, an investigation is conducted, which includes a site visit consisting of a document review, interview with individuals identified by the whistleblower, and any other appropriate individuals as determined by OMI. Reports generated by these investigations are reviewed and approved by VA leadership. VA facilities or program offices are required to complete action plans to address each report recommendation. VA tracks these action plans until completion. If appropriate progress is not apparent, subsequent on-site visits may be conducted. VHA will initiate administrative processes, when and where appropriate, to pursue disciplinary actions.

There is a second type of OSC whistleblower reprisal complaint that is investigated by OSC pursuant to 5 U.S.C. § 1214. In these cases, OSC works with VA to coordinate document discovery and interview requests with VA employees. If OSC finds there is sufficient evidence to support an allegation of a prohibited personnel practice, VA works with OSC to develop a meaningful way to resolve the complaint, normally through a settlement agreement between the whistleblower and VA. If a resolution is not reached, OSC may seek remedial action by filing an appeal against the Department with the Merit Systems Protection Board.

On June 23, 2014, OSC sent a letter regarding complaints about VA care across the country. In response to the OSC letter, Acting Secretary Gibson directed a comprehensive review of all aspects of the Office of Medical Inspector's operation. The VA Medical Inspector, John Pierce, M.D., has retired. Acting Secretary Gibson has met with Special Counsel Carolyn Lerner and a number of other staff-level meetings have also occurred. VA intends to regularly meet with OSC officials. We welcome OSC's insights, and we look forward to working closely with its staff to improve our process and culture regarding whistleblower complaints going forward.

VA is committed to making the changes necessary to ensure that we, in conjunction with OSC and OIG, properly investigate all allegations. We also will not tolerate retaliation against any employee who raises a hand to identify a legitimate problem or suggest a solution.

Conclusion

Mr. Chairman, we will continue to depend on the service of VA employees and leaders who place the interests of Veterans above and beyond self-interest; who serve Veterans with dignity, compassion, and dedication; who live by VA's core values of Integrity, Commitment, Advocacy, Respect, and Excellence; and who have the moral courage to help us serve Veterans better by helping make our policy and procedures better. I assure you that VA takes these issues very seriously and will do everything possible to ensure we cultivate an environment that empowers our employees and demands accountability in service to our Veterans. Mr. Chairman, this concludes my testimony. My colleague and I are now prepared to answer your questions.