

Whistleblowers of America



United in Speaking Truth to Power

www.whistleblowersofamerica.org

Workplace Promise Institute

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Testimony on behalf of

Whistleblowers of America

February 25, 2025

Before the

House Committee on Veterans' Affairs, Subcommittee on Oversight and Investigations

Chairman Kiggans and Ranking Member Ramirez:

Whistleblowers of America (WoA) appreciates the opportunity to provide this statement for the record. WoA has worked with this committee since 2019 on issues related to the Department of Veterans Affairs' (VA) employees and the Office of Accountability and Whistleblower Protection (OAWP). We are grateful for the opportunity to review and respond to legislative efforts so that the voices of so many can be heard. WoA, incorporated in 2017, has connected with thousands of whistleblowers seeking peer support from government agencies across the country and varies federal positions. They provide medical care in clinics and hospitals. They are scheduling appointments or operating x-ray equipment. They are police patrolling facilities or managers operating voluntary services.

The WoA primary mission is focused on mental health because retaliation is a traumatic stressor that can lead to posttraumatic stress disorder, depression, and anxiety—and as you are aware, suicide. This is the Committee that also passed the *Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017*. Today, I ask you to call upon Dr. Kirkpatrick's memory and his VA experience as a psychologist turned whistleblower who shot himself in his living room after experiencing some of the same maltreatment that this Committee is now calling for in the *Restore*

Department of Veteran Affairs Accountability Act 2025. Dr. Kirkpatrick should have known about his appeal rights. He should have been afforded the due process opportunity that the laws would have provided him when he raised concerns about his patients being overly prescribed psychotropic drugs. Dr. Kirkpatrick might still be alive today if he had been supported through the process and not vilified. How many other VA employees are like Dr. Kirkpatrick? I have jointly written to this Committee with the brother of Dr. Kirkpatrick asking for a full accountability for the enactment of this act, but we have seen no real action to prevent staff from dying by suicide or to report on the suicides by employees.

There is no doubt that there is fraud, waste, and abuse at VA. WoA has called out wrongful deaths, substandard care, fraudulent data, sextortion, discrimination, and contract manipulation. We have advocated for better oversight by the Office of Inspector General (OIG) and greater independence for the OAWP to assist claimants, but for the Office of Special Counsel (OSC) to take over the investigative mission. There is wasteful duplication between OAWP and OSC, with the OSC having greater authority to assist. During previous hearings, I have raised issues related to the lack of timeliness, unclear processes, misaligned staffing, and poor performance in assisting whistleblowing employees as well as the disconnect between the OAWP, OIG and the OSC. I have previously suggested that VA be mandated to:

1. Publish a whistleblower policy and be transparent with data requested from the veteran community;
2. Utilize properly trained, independent, and unbiased staff for investigations; and have timely sanctions for retaliators;
3. Track OIG recommendations and hold accountable VA leaders for implementing those recommendations, which can otherwise be shelved and ignored;
4. Abolish OAWP investigations and transfer resources to the Office of Special Counsel (OSC);
5. Allow VA employees to take their cases to civilian federal courts and provide them with access to legal counsel and/or support when they file retaliation claims;
6. Remove VA Police from the Department and transfer their authority to the Department of Justice similar to other federal agents. Police should not have to get

permission from medical center directors to investigate crimes or be obstructed in their pursuit of justice.¹

Additionally, according to 38 U.S. Code § 5103A, the VA has a duty to assist claimants. The law states that, “*The Secretary shall make reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate the claimant’s claim for a benefit under a law administered by the Secretary.*” A claimant is defined as any individual submitting a claim for benefits under the law administered by the Secretary. In creating the OAWP, there should be an inherent duty to assist the claimant, which would mean that an employee filing a claim should be entitled to the same assistance as veterans. This should include:

1. Explaining the level of evidence necessary to substantiate a claim against an alleged perpetrator;
2. Assisting with obtaining the necessary evidence to substantiate the violation of laws, rules, court opinions or regulations;
3. Helping document retaliation by using the Occupational Safety and Health Administration (OSHA) description;
4. Offering options and transparency for remedies and settlement agreements, which this Committee has also previously advocated during hearings;
5. Establishing an independent mentor program with training and education in peer support and a trauma-informed framework as described by the Substance Abuse Mental Health Services Administration (SAMHSA).

WoA understands the frustrations that this Committee feels when dealing with the wrongs at VA, but the removal of due process rights outlined in ***Restore Department of Veteran Affairs Accountability Act of 2025*** is not the most effective means to confront these problems. As we have seen since the ***Accountability and Whistleblower Protection Act of 2017*** passed, its implementation has been highly controversial, marked by the use of “hit lists,” and OSC/MSPB reversals and as POGO observed in 2020,² a “terrified” workforce is not effective. Removing

¹ Retired Special Agent Bruce Sackman describes the impact of Medical Center Directors who have control over the investigative process as potentially obstructive and impairing to investigations to protect their reputations and bonuses in his book, “Behind the Murder Curtain.”

² <https://www.pogo.org/investigations/terrified-of-retaliation-inside-veterans-affairs-whistleblower-office>

appeal rights harms those individuals and the veteran programs that they championed. We have seen dozens of these cases, and once adjudicated, it is often discovered that the whistleblower was not the problem – it was a supervisor or a senior leader covering up crimes. Property stolen from VA is a crime, drug diversion is a crime, and contract steering is a crime. Let the OIG and VA police have the power to investigate and charge criminals. Make these systems more effective and mandate that the VA ensures that perpetrators (employees and contractors) are not only terminated but also pay their fines to the Department of Treasury Judgement Fund, which they do not currently do. That is millions of dollars being lost to the Treasury.

The US Surgeon General Framework³ on **Workplace Mental Health and Well-being Report** describes these attributes as facilitating workplaces which *protect from harm, have opportunities for growth, encourage work-life harmony, support connection and community, and engage employees with dignity and meaningful work*. These are not novel ideas. They are based on decades of research on organizational safety and development. They come from business management leaders like Edward Deming⁴, Donald Berwick⁵, Kurt Lewin⁶ and of course Malcolm Baldrige and the National Quality Award⁷ that VA competes in. These are the types of tools needed to manage an effective workforce. Treating every employee like a criminal will disincentivize initiative, create more bystanders, and will distract them from the mission of caring for my fellow veterans. Every day, there are VA employees who go the extra mile to provide care, listen to problems, assist with appointments, and adjudicate benefits. Most of the problems veterans encounter at VA occur when employees are hamstrung by policies and procedures that do not allow them to think or act outside the box. They must clear computer alerts before listening to a patient's problems, cancel appointments because there are staffing shortages, and deny benefits because the record is unavailable. Suicidal veterans are prescribed medication and sent home when there are not enough VA beds available for admission and the community is already on diversion. Community Care has created new levels of access but also dysfunction when community providers cannot see VA records. As a result, care is denied or repeated tests and

³ <https://www.hhs.gov/surgeongeneral/reports-and-publications/workplace-well-being/index.html>

⁴ <https://deming.org/explore/fourteen-points/>

⁵ <https://hcp.hms.harvard.edu/people/donald-berwick>

⁶ <https://practicalpie.com/lewins-change-theory/>

⁷ <https://asq.org/quality-resources/malcolm-baldrige-national-quality-award>

treatments that are unnecessary and wasteful are prescribed. To quote The American Legion, VA is a “*system worth saving*,” but the system is only as strong as its workforce. We must protect and assist those employees who dedicate their professional selves to it. There is no “*us/them*.” VA employees are often veterans themselves or the spouses, sons, daughters, grandchildren, or siblings of a veteran or active duty service member. They are Reservists, Guardsmen, former VA interns, or individuals who have undergone a prolonged hiring process to get the jobs that they hold dear. Many of these employees have participated in the Department of Defense SkillBridge program, taken college courses on Military/Veteran Cultural Competency, and/or have been active in VA Voluntary Services. They have been trained by the Veterans Experience Office (VEO) to ensure veterans are satisfied customers. The VEO tools are available within VA to improve employment engagement and ensure organizational effectiveness. Let’s trust that process and those teaching tools.

Finally, above all else, let’s uphold the 5th Amendment of the US Constitution, which states that no person shall be “...deprived of life, liberty, or property without due process of law.” This provision protects Federal employees from discriminatory practices that include terminations and other adverse employment decisions without due process of law including judicial review. Federal employees are afforded these protections as an incentive for a speak up culture that can call out corruption without fear of retribution. VA employees take an oath to “*support and defend the Constitution*.” They should not be excluded from these most basic constitutional rights, especially since so many of them fought for these rights and their families sacrificed to protect America. Now is not the time to alienate them from those lawfully protected rights. President Lincoln once called upon this nation to be “*Highly resolve that these dead shall not have died in vain – that this nation, under God, shall have a new birth of freedom – and that the government of the people, by the people, for the people, shall not perish from the earth*.” (Gettysburg, November 19, 1863). These are our people. These are their rights.

Thank you.