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STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
HOUSE COMMITTEE ON VETERANS' AFFAIRS
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Good morning Chair Pappas, Ranking Member Mann, esteemed members of the Subcommittee, and fellow panelists.

Thank you for holding this important hearing. The U.S. Office of Special Counsel (OSC) is strongly committed to supporting veterans and to helping the U.S. Department of Veterans Affairs (VA) create a positive workplace environment for its employees. Ensuring that VA whistleblowers have a voice enables the VA to best protect the health and safety of our veterans. Special Counsel Kerner, as part of his fierce advocacy for whistleblower protection, has made working with the VA a top priority during his tenure at OSC. He has met individually with each VA Secretary during his term, including, most recently, with Secretary McDonough; he met, as well, with the former head of the Office of Accountability and Whistleblower Protection (OAWP), Dr. Bonzanto and with VA Inspector General Michael Missal. During these productive conversations, the Special Counsel emphasized the need for VA leaders to send a clear message from the top about the importance of whistleblowers and to affirm their strong commitment to prevent and address retaliation of whistleblowers.

As you know, whistleblowers serve a critical function in government by shining a spotlight on wrongdoing, and they are often the ones with the expertise to know whether deficiencies exist at a particular department or agency. The statutes governing OSC's work make our agency a critical resource for whistleblowers in three main ways. First, OSC provides a safe channel for making disclosures of wrongdoing. Second, OSC safeguards the merit system principles and protects federal employees from prohibited personnel practices, including retaliation for making disclosures of wrongdoing. Third, OSC provides training and stands as a partner with other federal agencies and Congress. Although some of these functions overlap with those of other agencies, there are important differences in the way OSC executes these functions that I would like to highlight.

To begin with, it is important to recognize that whistleblowers have choices when bringing forward allegations of wrongdoing. They can disclose to an agency's inspector general, they can go to the press, specifically at the VA, they can report their concerns to OAWP, they can file with OSC, and, of course, they can petition Congress. One of the things that makes OSC unique for whistleblowers is that our agency's procedures include their input throughout the entire process.

For example, through OSC's disclosure process, when a whistleblower brings forward allegations, the Special Counsel, within the 45-day statutory deadline, must determine whether the information establishes a "substantial likelihood" that the alleged wrongdoing occurred. OSC must rely solely on the information provided by the whistleblower to make this determination. If the Special Counsel does find that the information meets this initial burden, the Special Counsel will refer the case to the head of the agency, who must then investigate the allegations and provide a report to OSC. Following receipt of the agency report, OSC gives the whistleblower an opportunity to review the agency report and provide comments on its content. The Special Counsel then makes a determination on the sufficiency and reasonableness of the report, taking into account the whistleblower's important input, and provides that determination, along with the report itself and the whistleblower's comments, to the President and to Congress. The process ends with OSC making the Special Counsel's letter to the President, the agency report, and the whistleblower's comments available to the public through OSC's website. I lay out this framework to emphasize that the whistleblower is a crucial player throughout OSC's process for handling disclosures.

Separately from how OSC handles disclosures, OSC also provides an avenue for whistleblowers to complain if they believe they have suffered a prohibited personnel practice. OSC's process for handling prohibited personnel practices differs significantly from our work on disclosures of wrongdoing, in that, on the prohibited personnel practice side, our attorneys and investigators are the ones who actually conduct the required investigation. Additionally, OSC has enforcement authority to pursue corrective action for individual complainants, as well as disciplinary and systemic action, where appropriate. This combination serves to send a strong message not only to the individual whistleblower, but to the rest of the workforce, as well. This is important because whistleblowers come forward primarily when they have confidence in the process and do not fear retaliation.

The final piece of OSC's three-pronged approach to assisting whistleblowers consists of our robust outreach and training program, whereby we train managers and employees at federal agencies on all facets of OSC's mission, including whistleblower protection and OSC's disclosure process. During Special Counsel Kerner's tenure, OSC has provided numerous trainings for the VA and OAWP, specifically. In fact, OSC has regular monthly meetings with representatives from the VA's Office of General Counsel, OAWP, and the VA Office of Medical Inspector. During these meetings, we discuss individual cases that merit high-level attention, as well as general issues that impact our work across the board. Developing a good working relationship with the VA, through open lines of communication, has been critical to working towards our shared goal of promoting better government through transparency and accountability.

We remain steadfast in our commitment to helping the VA, this Committee, and this Subcommittee, in particular, provide the best service that it can to veterans by ensuring that any reported wrongdoing receives appropriate consideration. To that end, OSC has a dedicated front office staff member working as a liaison between the agency and Congress. I know that our

Deputy Special Counsel for Legislative Affairs works with your staff regularly and facilitates OSC's support for your important work.

Additionally, we thank you for sharing with OSC the draft legislation the Subcommittee is currently considering. We have had the opportunity to review the proposals and look forward to continuing to work with you and your staffs as you consider these and other ideas. I am happy to answer any questions you may have about our thoughts regarding the two bills but wanted to emphasize upfront how vital it is for OSC to maintain its independence. OSC's success is largely determined by the trust placed in us by the federal workforce. For this trust to continue, federal employees must remain confident that OSC remains above reproach when it comes to our work, especially when we determine the sufficiency and reasonableness of an agency's disclosure investigation or conduct our own investigations into prohibited personnel practices.

In closing, VA employees are among the greatest patriots in federal service, as they have devoted their professional lives to serving veterans, and, of course, many are veterans themselves. It is imperative that they feel supported in doing their jobs without fear of reprisal. OSC is here to describe how we work each and every day to do our part to make that goal a reality.

Thank you again for holding this important hearing. I look forward to answering any questions you may have.