

**Written Testimony of Special Counsel Carolyn N. Lerner  
United States Office of Special Counsel**

**Senate Committee on Veterans' Affairs**

**Hearing on Pending Legislation**

**May 17, 2017**

Chairman Isakson, Ranking Member Tester, and Members of the Committee:

Thank you for the opportunity to submit written testimony on behalf of the Office of Special Counsel (OSC). OSC protects the merit system for over two million civilian employees in the federal government, with a particular focus on investigating and prosecuting allegations of whistleblower retaliation. We offer the following views on the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 (the Act), sponsored by Senators Rubio, Tester, Isakson, and Moran.

Since 2014, OSC has received thousands of whistleblower retaliation complaints and disclosures of wrongdoing from Department of Veterans Affairs (VA) employees, far more than from any other agency. Our VA whistleblower cases sparked an overhaul of the VA's internal medical oversight office, highlighted systemic disparate treatment in disciplinary actions taken against whistleblowers, and prompted improvements in the quality of care and access to care at VA hospitals around the country.

Based on this experience, we strongly support the Act's provisions to establish the VA Office of Accountability and Whistleblower Protection (OAWP). We believe the OAWP will reinforce steps the VA has taken already to elevate and address whistleblower protection within the Department. Indeed, the Trump administration recognized the importance of such an office with its April 27, 2017 Executive Order on Improving Accountability and Whistleblower Protection at the VA. The Act takes additional, necessary steps to promote accountability, protect whistleblowers, and improve care at the VA by strengthening and codifying the OAWP.

OSC's work with VA whistleblowers will benefit from having a high-level point of contact with the statutory authority to identify, correct, and prevent threats to patient care and to discipline those responsible for creating them. Our experience with VA whistleblowers demonstrates that an Assistant Secretary with these specific responsibilities will help to avert patient care crises at the early warning stage, before they become systemic threats to patient health and safety. The establishment of similar offices at other agencies, including the Federal Aviation Administration, has significantly improved the whistleblower experience at those agencies. OAWP, with a Senate-confirmed leader, will have the authority and a mandate to make a significant difference.

Additionally, we support the Committee's decision to include whistleblower protection criteria in the performance plans of all VA supervisors and managers. This step, which we implemented at OSC, will create additional incentives for supervisors to respond constructively to employees' concerns, helping to improve the culture at the VA. We thank the Committee for the opportunity to provide these views, and for recognizing OSC's work and the contributions of VA whistleblowers.