



U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505

## **OSC Finds Numerous Shortcomings in VA Response on Barriers to Life-saving Organ Transplants for Veterans**

FOR IMMEDIATE RELEASE

CONTACT: Jill Gerber, (202) 804-7065; [jgerber@osc.gov](mailto:jgerber@osc.gov)

WASHINGTON, D.C./Jan. 26, 2018 –

The U.S. Office of Special Counsel (OSC) today noted numerous shortcomings and unanswered questions in the Department of Veterans Affairs (VA) response to whistleblower disclosures of flaws and limited access to life-saving organ transplants for veterans. The disclosures to OSC came from Mr. Jamie McBride, a registered nurse and program manager for the Solid Organ Transplant Program at Audie L. Murphy Memorial VA Hospital, San Antonio, Texas. Many of the identified problems apply throughout the VA's nationwide transplant program.

Mr. McBride disclosed that the structure and procedures for referring VA patients for organ transplants to a limited number of VA transplant facilities restrict patients' access to life-saving treatment. The structure also causes financial and other hardships to veterans and their families by requiring them to relocate for months to receive treatment. He also alleged that communication problems between VA medical centers and transplant centers result in delays in care; the transplant centers apply inconsistent and overly restrictive eligibility criteria for liver and kidney transplants; the medical centers lack the level of specialty care required to care for post-transplant patients; and the VA's unwillingness to perform living donor kidney transplants denies patients timely, life-prolonging treatment options.

OSC referred the allegations to the VA for investigation. The VA submitted an initial report to OSC on Jan. 30, 2017, and a supplemental report on May 17, 2017. Mr. McBride provided comments in response to each report. OSC has reviewed the reports.

"I have determined that the reports meet the statutory requirements; however, the findings do not appear reasonable," Special Counsel Henry J. Kerner wrote to President Trump.

Kerner's letter described that OSC identified several discrepancies and deficiencies in the evidence and findings presented in the VA's initial report and provided the VA an opportunity to clarify and resolve those issues in its supplemental report. However, he wrote, the VA:

--did not address the conflicting information regarding the availability of transplant care in the community and the coverage of organ harvesting and donor care through the Choice Program, which Congress created to allow veterans to seek care outside of the VA system when needed;

--did not address the full scope of the allegations, such as the cause of the VA's low rate of living donor transplants and communication problems among multiple VA facilities;

--for some findings, did not acknowledge the consequences and potential harm to veterans, such as the delay veterans experienced while appealing and seeking second opinions in cases where a VA transplant center applied overly restrictive criteria, and for post-transplant patients who receive care from physicians who do not believe they are capable of providing proper care;

--aside from travel reimbursement, did not address the other significant hardships and barriers to care imposed on veterans who must travel long distances for months to VA transplant centers; and

--identified only one transplant in the community covered under the Choice Program allowing veterans to receive care outside of VA facilities, and a small number through other contracting arrangements, yet offered no recommendations to improve veterans' access to community care.

"Mr. McBride deserves praise for bringing forward the numerous barriers to life-saving organ transplants for veterans," Kerner said. "With his disclosures, and continued persistence from him, from veterans and their advocates, attention from Congress, and diligence from those within the VA who are willing to acknowledge and fix the problems, I hope the agency will make sure good transplant care is available to veterans who need it."

On Nov. 7, 2017, the House of Representatives passed legislation, the Veterans Increased Choice for Transplanted Organs and Recovery Act of 2017 (VICTOR Act), amending the Choice Act to increase veterans' access to transplant care in the community. The bill is now pending in the Senate.

OSC sent a copy of the [letter](#) to the President, an unredacted version of the agency reports, and the whistleblower comments to the Chairmen and Ranking Members of the Senate and House Committees on Veterans' Affairs. OSC also filed a copy of the letter to the President, redacted reports, and whistleblower comments in its [public file](#), available at [www.osc.gov](http://www.osc.gov).

\*\*\*

*The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. For more information, please visit our website at [www.osc.gov](http://www.osc.gov).*