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**The Special Counsel**

May 15, 2018

The President  
The White House  
Washington, D.C. 20500

**VIA ELECTRONIC MAIL**

Re: OSC File Nos. DI-14-3461 and DI-14-3589

Dear Mr. President:

Pursuant to 5 U.S.C. §1213(e)(3), I am forwarding reports from Department of Veterans Affairs (VA) based on disclosures of wrongdoing at the Beckley VA Medical Center (Beckley VAMC), Beckley, West Virginia. The allegations disclosed were provided by [REDACTED] (the whistleblowers), program support assistants and enrollment advisors, who consented to the release of their names. The whistleblowers disclosed that Beckley VAMC did not follow proper scheduling protocols, management concealed the size of patient waiting lists in advance of an audit, and administrators have grossly mismanaged the benefit enrollment process.<sup>1</sup>

The investigation largely substantiated the whistleblowers' allegations, finding pervasive misconduct and violations of VA's scheduling policies. The findings included: improper scheduling practices were extensively used at Beckley VAMC; schedulers were instructed by managers to engage in practices that concealed the length of patient wait times; and scheduled appointments were created without patient input to minimize the appearance of delays in access to care. Beckley VAMC employees also mismanaged a list used by enrollment staff to communicate to primary care schedulers that a newly enrolled patient requested an appointment during the enrollment process. The investigation also found staff applied outdated VA benefit eligibility rules that may have resulted in the initial denial of veterans' applications.

Based on the report's findings, VA referred the matter to VA's Office of Accountability and Review for determinations concerning further disciplinary action for

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<sup>1</sup> The whistleblowers' allegations were referred to former Acting Secretary Sloan D. Gibson for investigation pursuant to 5 U.S.C. §1213(c) and (d). The Office of Inspector General (OIG) investigated the matter, and former Chief of Staff Vivieca Wright Simpson was delegated the authority to review and sign the report. These allegations were subject to an ongoing criminal investigation that lasted from September 2015 until April 2017. However, criminal charges were not filed. Upon the conclusion of this review, the VA OIG provided the Office of Special Counsel with an administrative summary of the investigation. The whistleblowers did not provide comments to the report.

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senior leaders. The report explained that since this matter was referred in 2014, the improper practices at issue have been addressed and resolved. Notably, the senior leaders involved in this conduct have since left federal service, and are not subject to disciplinary action.

When shown the agency report, ██████████ asserted that the OIG investigation was incomplete. His comments to the reports explained that the OIG failed to interview veterans who were improperly denied benefits. He also asserted that issues with Beckley VAMC's data system resulted in the deletion of a large number of benefits applications. ██████████ did not provide comments to the report.

I have reviewed the original disclosures and the agency reports. Based on the information adduced in the investigation it appears that the whistleblowers identified serious problems in the scheduling of patients and the enrollment of veterans at Beckley VAMC. However, it appears that in response to this referral, the facility is now taking these problems seriously and carrying out more fulsome measures to ensure patients and veterans are receiving appropriate access to care.

For these reasons, I have determined that the report meets the statutory requirements and the findings appear reasonable. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter and a copy of the agency report to the Chairmen and Ranking Members of the Senate and House Committees on Veterans' Affairs. I have also filed the letter to the President and the agency report in our public file which is available at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,



Henry J. Kerner  
Special Counsel

Enclosures