

June 9, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Jon Tester, Chairman
The Honorable Jerry Moran, Ranking Member
U.S. Senate Committee on Veterans Affairs
412 Russell Senate Office Building
Washington, DC 20510-6050

**RE: THE PENDING NOMINATION OF TANYA J. BRADSHER TO BE
DEPUTY SECRETARY, DEPARTMENT OF VETERANS AFFAIRS**

Dear Chairman Tester and Ranking Member Moran:

Our organizations represent whistleblowers who have made numerous protected disclosures over the years, including recent disclosures related to the pending nomination for the Deputy Secretary of the Department of Veterans Affairs (“VA”). These disclosures relate, among other things, to serious data security breaches impacting the personal privacy of veterans and VA employees during the tenure of Tanya Bradsher as Chief of Staff to Secretary Denis McDonough.

Although Senate Veterans Affairs Committee (“Committee”) staff were fully aware of these protected disclosures, the Committee nonetheless held a May 31, 2023, hearing without asking the nominee a single question about the serious issues raised by the whistleblower disclosures. The disclosures were not referenced. To date, we are aware of no attempts by Committee staff to contact the whistleblowers and listen to their concerns.

We are disappointed that the Committee has thus far shown no interest in thoroughly vetting the nominee’s record despite the serious issues raised by these whistleblowers on her watch. The Committee has a duty to scrutinize nominees to senior leadership positions like this and to inform fellow Senators about facts relevant to the exercise of their independent vote and participation in the constitutional advice and consent function.

The Committee’s May 31st hearing failed to achieve that goal.

Accordingly, we write to urge you to thoroughly investigate the whistleblower disclosures before deciding whether to elevate this nominee to a Senate-confirmed position. It’s particularly crucial that the Committee examine how these disclosures relate to her responsibilities to safeguard confidential veteran and whistleblower information in her current position.

BACKGROUND

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization, which is dedicated to enhancing independent oversight of government and corporate wrongdoing. It works to help insiders safely and legally

report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports.

Whistleblowers of America (“WoA”) is a nonprofit organization assisting whistleblowers who have suffered retaliation after having identified harm to individuals or the public. Its mission is to provide evidence-based peer support that matches mentors and mentees who follow a whistleblower strategic plan designed to reduce the stress on the whistleblower and assist in problem-solving and decision-making.

Both of our organizations have previously assisted VA whistleblowers in disclosing unethical conduct by senior Veterans Benefits Administration (“VBA”) officials. These disclosures have led to extensive oversight efforts by Senator Charles Grassley¹ and have been substantiated by the VA Office of Inspector General (“VA-OIG”).² We have exposed the VA’s stonewalling of Senator Grassley’s oversight through Freedom of Information Act (“FOIA”) litigation and additional whistleblower disclosures.³

One email obtained through FOIA litigation and provided to the Senate during its deliberations on the nomination of Joshua Jacobs to be the Under Secretary for Benefits earlier this year demonstrated that he had not been fully candid in denying “any role” in the VA’s gathering of information in response to Senator Grassley’s inquiries.⁴ Moreover, Jacobs disclosed in answers to Senator Grassley an unresolved sexual harassment allegation against an unnamed senior VA leader⁵ and failed to provide adequate answers to questions about the VA’s retaliation and firing of whistleblowers.⁶ This information was not disclosed to the public through the Committee, but rather through Senator Grassley’s website.⁷ The Committee failed to document any of these concerns in the record of its hearing on Jacobs, a former Deputy Staff Director of the Committee.⁸

¹ See, e.g., letter from Senator Charles Grassley, U.S. Senate, to Secretary Dennis McDonough, U.S. Department of Veterans Affairs, Apr. 2, 2021 (available at https://www.grassley.senate.gov/imo/media/doc/grassley_to_dept.ofveteransaffairsvbaethicsmarketinfoleaks.pdf); letter from Senator Charles Grassley, U.S. Senate, to Inspector General Michael J. Missal, U.S. Department of Veterans Affairs Office of Inspector General, Apr. 2, 2021 (available at https://www.grassley.senate.gov/imo/media/doc/grassley_to_va_inspector_general_ethics_market_info_leaks.pdf); letter from Senator Charles Grassley, U.S. Senate, to Acting Chairwoman Herren Lee, U.S. Securities and Exchange Commission, Apr. 2, 2021 (available at https://www.grassley.senate.gov/imo/media/doc/grassley_to_securities_exchange_commission_vba_ethics_market_info_leaks.pdf).

² Department of Veterans Affairs Office of Inspector General, “Veterans Benefits Administration, Education Service: Former Education Service Executive Violated Ethics Rules and Her Duty to Cooperate Fully with the OIG,” Report #21-02076-119 (Mar. 24, 2022); Fred Lucas, “Watchdog Confirms Senator’s Unanswered Suspicions About VA Official’s Conflict of Interest,” *The Daily Signal* (Apr. 13, 2022) (available at <https://www.dailysignal.com/2022/04/13/va-watchdog-confirms-senators-unanswered-suspicions-about-officials-conflict-of-interest/>).

³ Press release, “Empower Oversight and Whistleblowers of America Seek Accountability for VA Watchdog’s Findings of Ethical Violations,” Jun. 16, 2022 (available at <https://empowr.us/empower-oversight-and-whistleblowers-of-america-seek-accountability-for-va-watchdogs-findings-of-ethical-violations/>); press release, “VA Allegedly Limited FOIA Searches to Email but Also Uses a Separate Message System,” Sep. 26, 2022 (available at <https://empowr.us/va-allegedly-limited-foia-searches-to-email-but-also-uses-a-separate-message-system/>).

⁴ Senator Charles Grassley, Questions for the Record for Joshua Jacobs, Nominee, Under Secretary for Benefits, Department of Veterans Affairs (available at https://www.grassley.senate.gov/imo/media/doc/grassley_questions_for_the_record_to_joshua_jacobs_veterans_affairs_undersecretary_for_benefits_nominee.pdf); Joshua Jacobs Responses, Questions for the Record from Senator Charles Grassley (Mar. 2, 2023) (available at https://www.grassley.senate.gov/imo/media/doc/joshua_jacobs_responses_to_grassley_questions_for_the_record_veterans_affairs_undersecretary_for_benefits_nominee.pdf); 169 Cong. Rec. S770 (2023) (statement of Senator Charles Grassley, Mar. 14, 2023); see also Benjamin Krause, “Evasive Answers’ From VA Undersecretary For Benefits Nominee Holds Up Confirmation,” *DisabledVeterans.org* (Apr. 21, 2023) (available at <https://www.disabledveterans.org/nominee-va-undersecretary-for-benefits/>).

⁵ Joshua Jacobs Responses, Questions for the Record from Senator Charles Grassley, 4-5 (Mar. 2, 2023) (available at https://www.grassley.senate.gov/imo/media/doc/joshua_jacobs_responses_to_grassley_questions_for_the_record_veterans_affairs_undersecretary_for_benefits_nominee.pdf).

⁶ *Id.*; see also “Newly Uncovered Documents Show Senior VA Officials Smearing a Whistleblower to Avoid Congressional Oversight,” *Whistleblower Network News* (Oct. 25, 2021) (available at <https://whistleblowersblog.org/opinion/newly-uncovered-documents-show-senior-va-officials-smearing-a-whistleblower-to-avoid-congressional-oversight/>).

⁷ *Id.*

⁸ LinkedIn.com, Joshua Jacobs (<https://www.linkedin.com/in/joshua-jacobs-509b3462>) (last accessed Jun. 9, 2023).

The record of Tanya Bradsher's involvement in stonewalling Senate oversight of the VA is much more extensive than Jacobs'. As Chief of Staff to the Secretary, she was on countless emails regarding Senator Grassley's inquiries about conflicts of interest and whistleblower retaliation at the VA.⁹ Yet she has not been required to answer a single question about how, for more than a year, the VA's reply to Senator Grassley was drafted but never sent. That draft reply, obtained through FOIA litigation, demonstrates that the VA knew long before the VA-OIG had completed its investigation that the whistleblower disclosures were accurate, but the VA sat on that information and failed to impose any accountability for the conflicts of interest it had allowed to fester.¹⁰

VETERANS AND WHISTLEBLOWERS PRIVATE INFORMATION EXPOSED

As the nominee testified at her hearing, "...the Deputy Secretary is ultimately responsible for the electronic healthcare record program, and if confirmed, that responsibility ... will fall fully on my shoulders."¹¹ In light of that responsibility, it is crucial to examine the nominee's record in protecting the confidentiality of electronic records.

On May 29, 2023, two days before the Committee's hearing on Bradsher's nomination, now-retired VA employee Peter C. Rizzo signed a statement summarizing a series of previous protected whistleblower disclosures, including to the nominee's deputy, about serious privacy concerns with the VA's Integrated Workflow Solution ("VIEWS") correspondence tracking system.¹²

Rizzo, a Certified Fraud Examiner and former VA Program Manager, swore in his statement submitted to the Senate: "[O]n July 13, 2022, I reported these issues directly to Ms. Bradsher's Deputy Chief of Staff, Maureen Elias, both by video chat and by email. That day, Ms. Elias gave me her word that she would immediately brief Ms. Bradsher on my concerns about VIEWS."¹³

The concerns Mr. Rizzo outlined include:

- "[U]nconscionable mishandling of VA employee and Veterans' personally identifiable information ('PII'), personal health information ('PHI'), and details of [confidential] whistleblower disclosures."
- VIEWS compromising the anonymity of "whistleblowers, disabled Veterans seeking confidential assistance, and the privacy" of those whose sensitive information "remains today unprotected and readily accessible in VIEWS."

⁹ See, e.g., Exhibit 1.

¹⁰ Department of Veterans Affairs Responses to Questions from Senator Charles Grassley (draft) (Apr. 2021), available at https://empowr.us/wp-content/uploads/2023/01/33-1_Exhibit-B.pdf; see also press release, "Empower Oversight Obtains Documents VA Failed to Disclose in Conflicts Case; Notifies Court," Jan. 31, 2023 (available at <https://empowr.us/empower-oversight-obtains-documents-va-failed-to-disclose-in-conflicts-case-notifies-court>); press release, "Empower Oversight Opposes Efforts to Hide Documents from the Public on Congressional Oversight of VA Conflicts," Feb. 21, 2023 (available at <https://empowr.us/empower-oversight-opposes-efforts-to-hide-documents-from-the-public-on-congressional-oversight-of-va-conflicts>).

¹¹ Testimony of Tonya Bradsher before the Senate Veterans Affairs Committee (May 31, 2023).

¹² Statement of Peter C. Rizzo Concerning VA's Internal Correspondence Tracking System: VIEWS, May 29, 2023 (Exhibit 2).

¹³ *Id.* at 1.

- “[M]embers of the Senate and House who have engaged with VA on behalf of constituents” having their “staff members’ communications with VA...all housed in VIEWS and often left open and accessible...”
- That “[t]he thousands of authorized VIEWS users are able to access the system without logging in ever again after their initial VIEWS log-in.”
- That “VA leadership has long known of VIEWS’ security vulnerabilities, and yet not one of them—Ms. Bradsher included—has demonstrated the courage and will to take necessary corrective action.”¹⁴

At the time Mr. Rizzo made his report to Ms. Bradsher’s Deputy Chief of Staff, similar concerns had been raised to the VA about other systems hosted on Salesforce, the same platform as VIEWS. Salesforce is only considered suitable for hosting “moderate-risk” data, and on June 8, 2021, the VA-OIG issued an audit that included several pages on how one particular VA system should not have been hosted on Salesforce.¹⁵ According to the report: “The lower security setting [of Salesforce] has weaker access controls and potentially jeopardizes the confidentiality, integrity, and availability of sensitive information related to veterans and their caregivers.”¹⁶ The VA-OIG concluded: “Given the sensitivity of veteran and caregiver information..., stricter system security controls are needed to reduce the risks of unauthorized use or disclosure. The confidentiality, integrity, and availability of protected health information, personally identified information, and other sensitive information require greater protections.”¹⁷

AVOIDING ACCOUNTABILITY: VA DELAYS PROBE AND REPORT

The VA has long been criticized for its treatment of whistleblowers.¹⁸ The VA has had an extremely low settlement rate in whistleblower cases in recent years,¹⁹ and many of the cases which proceed to the Merit Systems Protection Board hinge on whether the agency had knowledge of an appellant’s protected disclosures. VIEWS constitutes a system of records in which supervisors can store and share information about whistleblowers and their disclosures without accountability.

This means that VA whistleblowers’ confidential protected disclosures can be discovered in VIEWS by numerous potential retaliators.

On August 2, 2022, the independent U.S. Office of Special Counsel (“OSC”) found that whistleblower disclosures about the misuse of VIEWS and lack of controls had “include[d] information sufficient for OSC to determine...there is a substantial likelihood of wrongdoing,” and referred the disclosures to the VA for investigation, with a report required 60 days later.²⁰

¹⁴ *Id.* at 1-2.

¹⁵ Department of Veterans Affairs Office of Inspector General, “Veterans Health Administration: Program of Comprehensive Assistance for Family Caregivers: IT System Development Challenges Affect Expansion,” Report #20-00178-24 (Jun. 8, 2021).

¹⁶ *Id.* at v.

¹⁷ *Id.* at 22.

¹⁸ See, e.g., Government Accountability Office, GAO-18-137, “Department of Veterans Affairs: Actions Needed to Address Employee Misconduct Process and Ensure Accountability,” Jul. 2018; see also Highlights (available at <https://www.gao.gov/products/gao-18-137>) (“Whistleblowers were 10 times more likely than their peers to receive disciplinary action within a year of reporting misconduct.”).

¹⁹ Government Accountability Office, GAO-23-106111, “VA Whistleblowers: Resolution Process for Retaliation Claims,” 25, May 3, 2023 (“From fiscal years 2018 to 2022, less than 1 percent of whistleblower retaliation cases involving VA employees were closed due to a settlement agreement...”). Earlier GAO work

²⁰ Letter from U.S. Office of Special Counsel, Re: OSC File No. DI-22-000680, Aug. 2, 2022 (Exhibit 3); see also <https://osc.gov/Services/Pages/DU.aspx>.

Yet under Secretary McDonough and Tanya Bradsher's leadership, the VA has requested extensions every 60 days since then, repeatedly punting its obligations to investigate and report to OSC on these serious whistleblower disclosures. Its latest request for an extension, made on June 1, would delay a response to the whistleblower disclosures until August 1. Yet, in the ten months since the referral to the VA, there has apparently been no progress whatsoever in correcting the problems. According to additional whistleblower disclosures as recently as this month, June 2023, the private information of veterans, whistleblowers, and your constituents is *still* widely, insecurely, and improperly accessible in VIEWS—vulnerable to compromise.

QUESTIONS FOR THE NOMINEE

Before any vote on her confirmation in Committee or on the floor, there should be a public record of her answers to key questions about these controversies, and the Committee should conduct a serious investigation into them that requires the VA to produce relevant documents.

At a minimum to inform their decision on how to vote responsibly, Senators should obtain much more information about Ms. Bradsher's role in:

1. Stonewalling Senator Grassley's inquiries about conflicts of interest—which were later substantiated by the VA-OIG—and whistleblower retaliation at the VA.
2. Failing to mitigate conflicts of interest of senior VA officials, failing to remedy whistleblower retaliation, and failing to hold others accountable for those issues.
3. Failing to protect veterans' private health information and confidential whistleblower disclosures from misuse and improper exposure in VIEWS.
4. Failing to notify victims, other agencies, and Congress of these privacy breaches.
5. Delaying the VA's required investigation and report on whistleblower disclosures about these issues to OSC beyond the likely timeframe of her confirmation proceedings.

Any confirmation process should be rigorous and thorough—not merely a rubber stamp. The Committee owes it to the public veterans, and fellow Senators to ensure that they are fully informed before exercising their constitutional advice and consent function. Accordingly, we respectfully urge you to probe these issues more deeply and publicly report on your findings before scheduling any further consideration of this nominee.

Sincerely,

[/Tristan Leavitt/](#)
Tristan Leavitt
President
Empower Oversight

[/Jacqueline Garrick/](#)
Jacqueline Garrick
Founder
Whistleblowers of America

ATTACHMENTS

Exhibit 1

From: Bradsher, Tanya J.
Sent: Sat, 3 Apr 2021 12:00:09 +0000
To: DRM
Subject: Fwd: HOT - letter from Senator Grassley to SECVA
Attachments: 2021-04-02 CEG to VA.pdf

Sir,

This letter from Sen Grassley came in last night. I wanted you to see it in case he releases it to the media. I see that Tom is mentioned, I don't recognize the other names and have asked who else listed are still VA employees.

Tanya Bradsher

Chief of Staff

Department of Veterans Affairs

(b)(6)@va.gov

Cell: (b)(6)

From: McClain, Kimberly A. (b)(6)@va.gov>
Sent: Saturday, April 3, 2021 7:34:32 AM
To: Bradsher, Tanya J. (b)(6)@va.gov>; Hipolit, Richard (OGC) (b)(6)@va.gov>; Jackson, Tahmika R. (OGC) (b)(6)@va.gov>
Cc: Johnson, Glenn (SES) (b)(6)@va.gov>; McVicker, Carrie A. (b)(6)@va.gov>
Subject: HOT - letter from Senator Grassley to SECVA

Chief, Dick, Tahmika

Placing RM Grassley's letter, Senate Judiciary, at the top of your inbox. This has a short suspense; 16 April.

Standing by for questions.

Thank you,

Kim

Get [Outlook for iOS](#)

From: (b)(6)@va.gov>
Sent: Friday, April 2, 2021 6:51 PM
To: VIEWS-001B@va.gov
Cc: McVicker, Carrie A.; (b)(6) Johnson, Glenn (SES) (b)(6) McClain, Kimberly A.; (b)(6)
Subject: HOT - letter from Senator Grassley to SECVA

Please see attached letter from Senator Grassley in his role as Ranking Member of the Committee on the Judiciary – he is requesting a response by APRIL 16

Respectfully,

(b)(6)

Congressional Relations Officer | Department of Veterans Affairs

2026 Rayburn House Ofc. Bldg., Washington, DC 20515

Desk: (b)(6) Mobile: (b)(6)

<https://www.va.gov/OCA/docs/VA-Casework-Guide-2019-Aug-16-Update.pdf>

From: (b)(6) (Judiciary-Rep) (b)(6)@judiciary-rep.senate.gov>
Sent: Friday, April 2, 2021 5:02 PM
To: (b)(6)@va.gov>
Cc: (b)(6) (Judiciary-Rep) (b)(6)@judiciary-rep.senate.gov>; CEG (Judiciary-Rep) <CEG@judiciary-rep.senate.gov>
Subject: [EXTERNAL] 2021-04-02 CEG to VA

Hello (b)(6)

Please find the attached letter from Senator Grassley to the U.S. Department of Veterans Affairs.

Please confirm receipt of this letter. Thank you.

--

Best Regards,

(b)(6)

Investigative Counsel
Ranking Member Charles E. Grassley
U.S. Senate Committee on the Judiciary

From: Jacobs, Josh
Sent: Tue, 6 Apr 2021 12:19:48 +0000
To: SECVA Scheduling; Clancy, Carolyn; Diaz, Chris E.; Williams, Kayla M.; McClain, Kimberly A.; Kabat, Margaret B. (b)(6); Hipolit, Richard (OGC) (b)(6); (b)(6) Kelley, Raymond C.; Jackson, Tahmika R. (OGC); McVicker, Carrie A.; MacDonald, Jennifer E. (Physician); Boerstler, John; (b)(6); (b)(6) OGC); Farrisee, Gina (b)(6); 8:orgid:221139d1-759e-4b33-993e-f8cb241e76aa (b)(6) Parrish, Michael D.; Turner, Shawn S.; Bradsher, Tanya J.; (b)(6); Mayo, Jeffrey; 8:teamsvisitor:401b959c25c04bfe954cfd5b70324c9a

McClain, Kimberly A. - I got a call from someone last night about a Grassley issue; might be the same

From: DRM
Sent: Tue, 6 Apr 2021 20:58:16 +0000
To: Bradsher, Tanya J.
Subject: Re: 2021-04-02 CEG to VA - Grassley

Just tried you. Please call me when you can.

From: Bradsher, Tanya J. <(b)(6)@va.gov>
Sent: Tuesday, April 6, 2021 13:42
To: DRM
Subject: FW: 2021-04-02 CEG to VA - Grassley

Hi Sir,
Grassley sent out a press release and attached the letter. We have looped in Kayla.

Tanya Bradsher
Chief of Staff
Department of Veterans Affairs
(b)(6)@va.gov
Cell: (b)(6)

From: (b)(6)@va.gov
Sent: Tuesday, April 6, 2021 3:04 PM
To: McClain, Kimberly A. (b)(6)@va.gov
Cc: Johnson, Glenn (SES) (b)(6)@va.gov
Subject: FW: 2021-04-02 CEG to VA - Grassley

From his website:

Grassley Seeks Sweeping Review into Allegations of Whistleblower Reprisal, Ethics Violations at Veterans Benefits Administration

Following review of whistleblower complaints, documents, Grassley pushes VA, Inspector General, and SEC for Transparency

From: Hipolit, Richard (OGC)
Sent: Thu, 8 Apr 2021 20:25:17 +0000
To: Bradsher, Tanya J.
Subject: RE: Grassley Letter Follow Up

I'll come up with something.

From: Bradsher, Tanya J. (b)(6)@va.gov>
Sent: Thursday, April 8, 2021 3:40 PM
To: Hipolit, Richard (OGC) (b)(6)@va.gov>
Subject: RE: Grassley Letter Follow Up

(b)(5)

Tanya Bradsher
Chief of Staff
Department of Veterans Affairs

(b)(6)@va.gov

Cell (b)(6)

From: Hipolit, Richard (OGC) (b)(6)@va.gov>
Sent: Thursday, April 8, 2021 3:30 PM
To: Bradsher, Tanya J. (b)(6)@va.gov>
Subject: RE: Grassley Letter Follow Up

(b)(5)

From: Bradsher, Tanya J. <(b)(6)@va.gov>
Sent: Thursday, April 8, 2021 1:56 PM
To: Hipolit, Richard (OGC) <(b)(6)@va.gov>
Subject: RE: Grassley Letter Follow Up

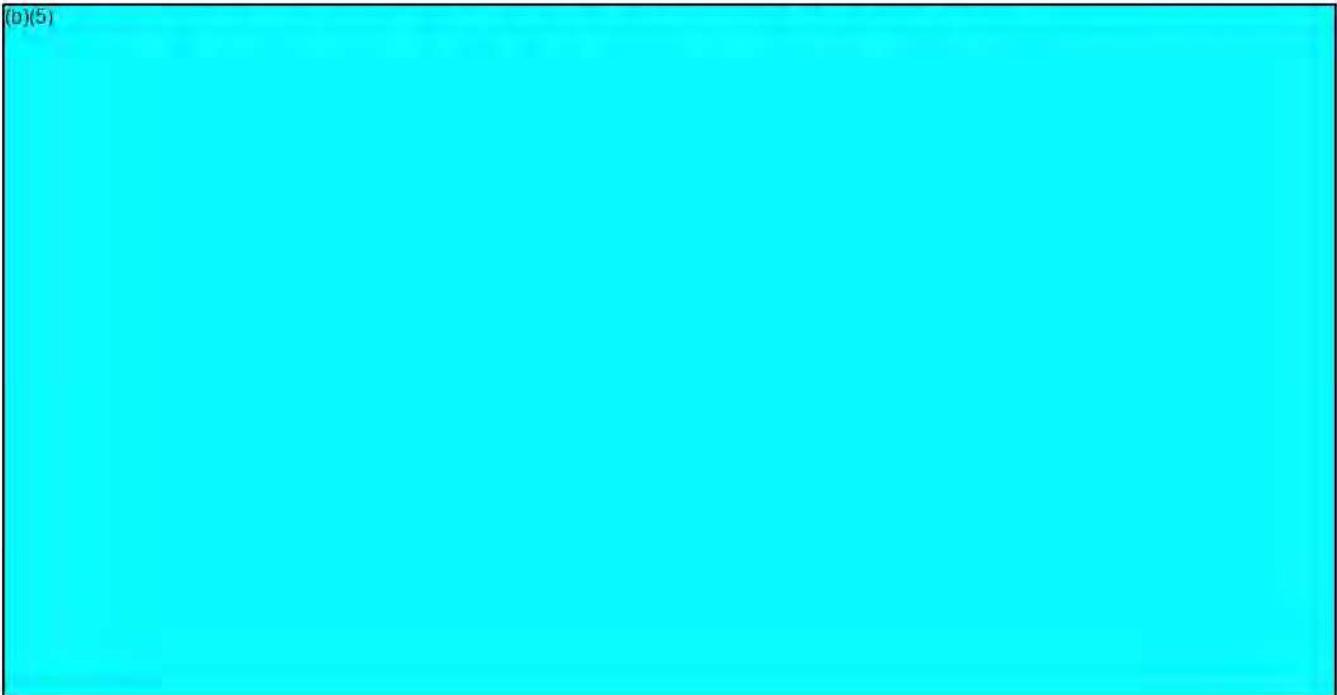
This looks great to me (b)(5)
(b)(5) Do you have another recommendation for the AIB?

Tanya Bradsher
Chief of Staff
Department of Veterans Affairs
(b)(6)@va.gov
Cell: (b)(6)

From: Hipolit, Richard (OGC) <(b)(6)@va.gov>
Sent: Thursday, April 8, 2021 11:31 AM
To: Bradsher, Tanya J. <(b)(6)@va.gov>
Subject: Grassley Letter Follow Up

Tanya, per our conversation, this is my advice to the Secretary regarding matters addressed in Senator Grassley's letter to the Secretary of April 2, 2021.

(b)(5)



Richard J. Hipolit
Deputy General Counsel, Veterans Programs
Office: (b)(6)
Cell: (b)(6)

Sent: Fri, 16 Apr 2021 14:37:37 +0000
To: Bradsher, Tanya J.
Subject: RE: For Consideration - PRA

Chief,

(b)(5)

From: Bradsher, Tanya J. <Tanya.Bradsher@va.gov>
Sent: Friday, April 16, 2021 10:33 AM
To: Farrisee, Gina S. <Gina.Farrisee@va.gov>
Subject: Re: For Consideration - PRA

(b)(5)

Tanya Bradsher
Chief of Staff
Department of Veterans Affairs
(b)(6)@va.gov
Cell: (b)(6)

From: Farrisee, Gina S. (b)(6)@va.gov>
Sent: Friday, April 16, 2021 10:29:49 AM
To: Bradsher, Tanya J. (b)(6)@va.gov>
Subject: For Consideration - PRA

Morning Chief,

Mike Hogan, Carrie and I met to discuss information gathering on Grassley letter late yesterday. (b)(5)

(b)(5)

VR,
Gina

Exhibit 2

**Statement of Peter C. Rizzo Concerning VA's
Internal Correspondence Tracking System: VIEWS**

I, Peter C. Rizzo, solemnly swear that my statement below is true and complete to the best of my knowledge and belief.

I am a Certified Fraud Examiner, Certified Government Auditing Professional, and former employee of the U.S. Department of Veterans Affairs ("VA"). I worked as a Program Manager in the Quality Assurance Service of the Office of Construction and Facilities Management, a position I held from August 8, 2015 until my resignation on July 31, 2022.

I recommend that the United State Senate Veterans Affairs Committee stop the confirmation process for Tanya Bradsher, nominee for VA Deputy Secretary, at least until the U.S. Office of Special Counsel ("OSC") releases the findings from an ongoing investigation into VIEWS, VA's official internal correspondence tracking system (OSC Case No. DI-22-000680). The findings from this investigation are expected to document what I have found to be an incredible and unconscionable mishandling of VA employee and Veterans' personally identifiable information ("PII"), personal health information ("PHI"), and details of whistleblower disclosures. The current operating posture of VIEWS has decimated any anonymity of whistleblowers, disabled Veterans seeking confidential assistance, and the privacy of what is likely hundreds of thousands of individuals whose sensitive information remains today unprotected and readily accessible in VIEWS thanks to VA's carelessness.

In her current capacity as VA Chief of Staff, Ms. Bradsher is responsible for VIEWS. Ms. Bradsher is also fully aware of VIEWS' deficiencies and its ongoing misuse by VA employees. I know this because on July 13, 2022, I reported these issues directly to Ms. Bradsher's Deputy Chief of Staff, Maureen Elias, both by video chat and by email. That day, Ms. Elias gave me her word that she would immediately brief Ms. Bradsher on my concerns about VIEWS.

Today, almost 11 months later, Ms. Bradsher has failed to close cavernous security gaps in VIEWS, leaving employees and Veterans at incredible risk. Through her inaction, she has ignored pleas from whistleblowers to protect their data, and has not been forthcoming with Congress, veteran service organizations, VA employees, or the public about the potential damage VIEWS has caused and may cause in the future.

For members of the Senate and House who have engaged with VA on behalf of constituents, know that your and your staff members' communications with VA are all housed in VIEWS and often left open and accessible to potential bad actors within VA.

Consider the case of legendary VA whistleblower Kristen Ruell, whose permission I obtained to include her as an example in this statement. Ms. Ruell blew the whistle on VA's intentional destruction of Veterans' benefits claims, among other wrongdoing. When Ms. Ruell reached out to Congressman Brian Fitzpatrick in September 2020 to request assistance with a resulting case of whistleblower retaliation, she was directed by the Congressman's office to complete a form which requested her name, home address, date of birth, social security number, home phone number, and personal email address; she did so and returned it to Congressman Fitzpatrick's office (as I had discovered, this is a standard practice for most members of the Senate and House, whether they are assisting a VA employee or Veteran). Congressman Fitzpatrick's office then sent Ms. Ruell's form and other materials to a VA congressional liaison, at which time that liaison uploaded all of the confidential congressional whistleblower communications and materials to VIEWS and applied no protective security measures to that

information. By the time I discovered these materials in VIEWS, six other people had already downloaded certain PII-containing documents.

Also concerning Ms. Ruell is what VIEWS calls an “ARC-Case” (i.e., an ‘archived case’ that originated in VAIQ, the predecessor to VIEWS, and was migrated to VIEWS in 2018). Specifically, ARC-702688, which concerns retaliation, harassment, and vandalism experienced by Ms. Ruell as a result of her substantiated allegations of wrongdoing yielded action by Congress and the VA Office of Inspector General. Associated with this VIEWS case are three “ARC-Case Attachments,” including Twitter tweets calling Ms. Ruell a “piece of shit” and an email string spanning July 10, 2015 to August 18, 2017 detailing the abuse Ms. Ruell faced from reporting these matters, including communications with the VA Secretary, Office of Inspector General, and OSC. Anyone with VIEWS access can find this information on Ms. Ruell, leaving the door open to her continued harassment and doxing. Ms. Ruell’s supervisors and potentially anyone she blew the whistle on can obtain this information and use it against her.

As I stated earlier, I estimate that hundreds of thousands of VA employees and Veterans are at risk of having their sensitive information accessed and used nefariously. The thousands of authorized VIEWS users are able to access the system without logging in ever again after their initial VIEWS log-in. It has no two-factor authentication capabilities and does not require an employee to have their HSPD-12 government ID card inserted into a connected reader—you simply click a link and you are automatically logged into VIEWS.

What bothers me most is that through my research into VIEWS, I learned that VA leadership has long known of VIEWS’ security vulnerabilities, and yet not one of them—Ms. Bradsher included—has demonstrated the courage and will to take necessary corrective action. Instead, it appears that we are about to reward Ms. Bradsher with a promotion despite her failure to keep VA employees and America’s Veterans safe.

Believe me—I take no pleasure in blowing the whistle yet again on this matter. However, I am doing so out of fear for my former whistleblower colleagues whose information is exposed through VIEWS. I had to resign from the job that I loved—serving America’s heroic Veterans—in large part because of the mistreatment I suffered personally after blowing the whistle on a matter that resulted in the brutal deaths of two Veterans. It got to the point where I could not be the husband to my wife or father to my child that I wanted to be, all because of the stranglehold VA’s retaliator executives had over me.

The foregoing is a complete and truthful statement of my personal knowledge regarding the matters discussed. I hereby make this statement under penalty of perjury.



Peter C. Rizzo

05/29/2023

Date

Exhibit 3



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

August 2, 2022

Mr. Peter Rizzo
[REDACTED]
[REDACTED]

SENT VIA E-MAIL AT [REDACTED]

Re: OSC File No. DI-22-000680

Dear Mr. Rizzo:

The Office of Special Counsel (OSC) has completed its review of the information you referred to the Disclosure Unit. You alleged that employees at the Department of Veterans Affairs (VA), Washington, D.C., engaged in conduct that may constitute a violation of law, rule, or regulation.

OSC is authorized by law to determine whether a disclosure should be referred to the involved agency for investigation or review, and a report; however, OSC does not have the authority to investigate disclosures. OSC may refer allegations of violations of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; a substantial and specific danger to public health or safety; or censorship related to scientific research or analysis. Disclosures referred to the agency for investigation and a report must include information sufficient for OSC to determine whether there is a substantial likelihood of wrongdoing.

You consented to the release of your name and disclosed that VA officials are violating the Privacy Act of 1974 and the provisions of VA Directive 6502 and VA Handbook 6500 by improperly storing the personally identifiable information of whistleblowers, employees, and veterans in the Veterans Affairs Integrated Enterprise Workflow Solution (VIEWS) system of records because such sensitive information is not marked as sensitive and is therefore accessible to all VA employees that have access to VIEWS.

After reviewing the information submitted, we have requested that the Secretary conduct an investigation into these allegations and report back to OSC pursuant to 5 U.S.C. § 1213(c). We have provided the Secretary 60 days to conduct the investigation and submit the report to OSC. However, you should be aware that these investigations usually take longer, and agencies frequently request and receive extensions of the due date. Should the agency request an extension in this case, we will advise you of the new due date for the report.

Mr. Peter Rizzo
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Unless the report is classified or otherwise not releasable by law, we will send you a copy after our review so that you may comment on the report, if you wish. When the matter is closed, the Special Counsel will transmit the report and your comments to the President and the appropriate congressional oversight committees. Copies of these documents will be maintained by OSC in a public file, which is posted on OSC's website at www.osc.gov.

We emphasize that, while OSC has found a substantial likelihood of wrongdoing based on the information you submitted in support of your allegations, our referral to the Secretary for investigation is not a final determination that the allegations are substantiated. This remains an open matter under investigation until the agency's final report is forwarded to the President and Congress.

If you have questions or would like to discuss this matter, please contact me at

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Sincerely,



Leslie J. Gogan
Attorney, Disclosure Unit