

Senator Charles Grassley
Questions for the Record

Joshua Jacobs

Nominee, Under Secretary for Benefits, Department of Veterans Affairs

1. As senior advisor to four VA secretaries, you have had a firsthand seat to the VA's series of scandals and breach of public trust. Did you play any role in advising the Secretary of VA in the following crises? If so, please describe that role.
 - a. The 2014 Phoenix wait list scandal that led to the deaths of many U.S. Armed Services veterans, who died waiting for care at VA facilities, and subsequent whistleblower retaliation of employees that alerted the public;
 - b. The veteran claims backlog, which currently stands at about 743,000 pending claims;¹
 - c. Poor quality processing on military sexual trauma cases, which VA OIG in 2018 reported were erroneously adjudicated by VA 49 percent of the time;²
 - d. GI Bill modernization delays;³
 - e. Ethics violations of Veterans Benefits Administration (VBA) senior leaders; and
 - f. The Veterans Affairs Office of Inspector General (VA OIG) report substantiating Ms. Charmain Bogue's conflicts of interest.
2. As a senior advisor to multiple VA secretaries, have you witnessed or engaged in any deliberate agency delays in releasing VA OIG reports or administrative investigation findings that do not favor the VA? If so, please describe.

¹ U.S. Dep't of Veterans Aff., Veterans Benefits Administration Reports, Detailed Claims Data, Status Reports as of February 11, 2023, Claims Inventory (last accessed on February 17, 2023), https://benefits.va.gov/reports/detailed_claims_data.asp.

² See, U.S. Dep't of Veterans Aff., Military Sexual Trauma (last accessed on February 17, 2023), <https://www.va.gov/health-care/health-needs-conditions/military-sexual-trauma/>; see also, U.S. Government Accountability Office, Military Sexual Trauma: Improvements Made, But VA Can Do More to Track and Improve the Consistency of Disability Claim Decisions, GAO-14-477 (2014), <https://www.gao.gov/products/gao-14-477>; Veterans of Foreign Wars, Supporting Survivors: Assessing VA's Military Sexual Trauma Programs, Statement of Kristina Keenan, Associate Director, VFW, Before the U.S. House of Representatives, Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs and Subcommittee on Health (November 17, 2021), <https://www.vfw.org/advocacy/national-legislative-service/congressional-testimony/2021/11/supporting-survivors-assessing-vas-military-sexual-trauma-programs>.

³ See, U.S. Dep't of Veterans Aff., Digital VA, Transforming the GI Bill Experience, <https://digital.va.gov/delightful-end-user-experience/transforming-the-gi-bill-experience/#:~:text=In%20March%202021%2C%20VA%20began,students%20it%20serves%20each%20year.>

3. Have you seen or engaged in deliberate delays of congressional inquiries? If so, please describe.
4. I have repeatedly called upon the VA to respond to my inquiries regarding ethics violations within the Veterans Benefits Administration. Freedom of Information Act productions have been released to the public, yet limited and narrow information has been produced to me. Is it ever acceptable for an agency to refuse to provide materials to members of Congress based upon their minority-party status, chairmanship status, or to treat member requests as Freedom of Information Act requests? If so, please explain the basis of your position.
5. A report issued last year by the VA OIG substantiated allegations by whistleblowers that Ms. Charmain Bogue failed to recuse herself from matters related to her spouse and his employer.⁴ She broke conflict of interest rules. VA's Freedom of Information Act productions appear to substantiate that VBA senior leaders knew about Mrs. Bogue's need to recuse and actively prevented adherence to VA Ethics counsel recommendations. There is some indication in the records that VBA leaders may also have engaged in whistleblower retaliation or failed to discipline those who did.⁵ Many of these leaders remain at VBA and are, allegedly, members of your senior executive cadre. They include Mike Frueh, your principal deputy; Tom Murphy, your Northeast District Director; Rob Reynolds, Deputy Undersecretary for Disability Assistance; and Robert Worley, Director of the Houston Regional Office.⁶
 - a. I have repeatedly sought information on these issues since April 2021, yet VA has refused to answer most of my investigative inquiries and questions. Given your role as senior advisor to multiple VA secretaries, did you play any role in the VA's response to me, and if so, did you know about or participate in the VA's decision not to answer my questions?
 - b. How will you ensure proper investigations take place and that all members, regardless of party affiliation or chairmanship status, have their inquiries answered in a timely manner?
 - c. As the Acting Undersecretary, you presumably can open investigations into these matters without waiting for congressional oversight requests. Will you

⁴ U.S. Dep't of Veterans Aff., Off. Of Inspector Gen., #21-02076-119, Former Education Service Executive Violated Ethics Rules and Her Duty to Cooperate Fully with the OIG (2022), <https://www.va.gov/oig/pubs/VAOIG-21-02076-119.pdf>.

⁵ See, Charmain Bogue, Affidavit before the Equal Employment Opportunity Commission (February 13, 2019), document on file with Senator Grassley's staff and available upon request; Email from Robert Worley to Redacted Recipient (March 8, 2018) (defending Ms. Charmain Bogue and castigating a VA employee for raising the issue of her ethical conflicts), document on file with Senator Grassley's staff and available upon request; U.S. Dep't of Veterans Aff., unredacted partial draft answers to Senator Grassley (April 2021), on file with Senator Grassley's staff and available upon request.

⁶ *Id.*

agree to do so?

6. Mr. Tom Murphy stated in an email to Secretary McDonough that allegations regarding his NASCAR travel ethics violation and Ms. Bogue's conflicts of interest stemmed from one whistleblower he removed from federal service for technical administrative violations.⁷ Allegations dismissed by Mr. Murphy to Secretary McDonough have been substantiated as accurate by OIG and administrative investigations.⁸
 - a. What steps has VA taken to look into potential whistleblower retaliation by Mr. Murphy or VA staff?
 - b. Have you ever fired someone you suspected to be a whistleblower? If so, please provide a response with all details directly to my office so that we may make any needed redactions to protect alleged whistleblowers. If you answer affirmatively to this question, please note in your written response that you have provided detailed information separately.
 - c. Have you ever promoted, reassigned, or been involved in the selection for public office of anyone you knew had fired a suspected whistleblower? If so, please provide a response with all details directly to my office so that we may make any needed redactions to protect alleged whistleblowers. If you answer affirmatively to this question, please note in your written response that you have provided detailed information separately.
 - d. I have repeatedly stated that multiple whistleblowers have engaged my office and asked that the VA protect those harmed by retaliation.⁹ Do you agree with the VA's lack of responsiveness to my requests?
 - e. Mr. Murphy openly admitted to removing a whistleblower from federal service.¹⁰ What steps will you take to investigate this matter?
7. Many of the senior executives referenced in question four were allegedly hired or promoted into their positions by former Undersecretary of Benefits Allison Hickey and Acting Undersecretary of Benefits Danny Pummill.

⁷ Email from Thomas Murphy to Denis McDonough, Secretary, U.S. Dep't of Veterans Affairs (April 6, 2021), <https://empowr.us/wp-content/uploads/2021/10/email3-87-Murphy-to-McDonough.pdf>.

⁸ U.S. Dep't of Veterans Aff., Off. of Inspector Gen., #21-02076-119, Former Education Service Executive Violated Ethics Rules and Her Duty to Cooperate Fully with the OIG (2022), <https://www.va.gov/oig/pubs/VAOIG-21-02076-119.pdf>.

⁹ See, e.g., Letter from Senator Charles E. Grassley, Ranking Member, Committee on the Judiciary, to Denis McDonough, Secretary, U.S. Dep't of Veterans Aff. (November 17, 2021), https://www.grassley.senate.gov/imo/media/doc/grassley_to_dept.ofveteransaffairsobstructionfoiareleasesconflictsofinterest.pdf.

¹⁰ Email from Thomas Murphy to Denis McDonough, Secretary, U.S. Dep't of Veterans Affairs (April 6, 2021), <https://empowr.us/wp-content/uploads/2021/10/email3-87-Murphy-to-McDonough.pdf>.

- a. Were you a senior advisor during the tenure of these individuals, and did you work closely with them?
 - b. Did you work with them after leaving the VA during your job at Booz Allen Hamilton?
 - c. Have you ever received any disclosures by employees or external whistleblowers regarding alleged improprieties or unethical behavior by Mr. Pummill, Mr. Murphy, Mr. Manker, Mr. Frueh, or Ms. Bogue? If so, how did you assist?
8. The VA OIG reported in 2019 on the Office of Accountability and Whistleblower Protection (OAWP) being fraught with challenges, including running biased investigations, using its powers to retaliate against whistleblowers, and failing to hold leaders accountable for wrongdoing.¹¹ In fact, during the period in question, OAWP's own leadership team was found by the VA OIG to have been complicit in steering contracts to friends and referred to the DOJ.¹²
 - a. Are you aware of these facts?
 - b. What has VA done to rectify these shortcomings?
9. I have received credible allegations that former VBA officials may have disregarded ethics rules and not maintained acquisition integrity in entering into certain contracts. In light of substantiated ethics violations during the leadership tenure of Mr. Murphy and Ms. Bogue and their role in the award of \$453 million Recovery Act dollars for the GI Bill IT modernization project, the VA OIG must investigate the propriety of awards related to this project.¹³

¹¹ U.S. Dep't of Veterans Aff., Off. of Inspector Gen., #18-04968-249, Failures Implementing Aspects of the VA Accountability and Whistleblower Protection Act of 2017 (2019), <https://www.va.gov/oig/pubs/VAOIG-18-04968-249.pdf>.

¹² *Id.* at 53, n. 121.

¹³ See, USASpending.gov, Spending by Prime Award, Contracts for Le'Fant LLC, <https://www.usaspending.gov/search/?hash=fb8d9896f9fc8c967e8642c0879ae71e>; USASpending.gov, Contract Summary for Awarding Agency U.S. Dep't of Veterans Aff. and Recipient Le'Fant LLC, https://www.usaspending.gov/award/CONT_AWD_36C10E20C0003_3600_-NONE_-NONE-; USASpending.gov, Contract Summary for Awarding Agency, U.S. Dep't of Veterans Aff. and Recipient Le'Fant LLC, https://www.usaspending.gov/award/CONT_AWD_36C10X18C0055_3600_-NONE_-NONE-; USASpending.gov, Award Profile, Contract Summary, Sub-Awards to All In Solutions LLC, https://www.usaspending.gov/award/CONT_AWD_36C10D21N0007_3600_VA11816D1013_3600; see also, William McCormick, Accenture Federal Services Secures \$453M VA IT Contract; Shawn Roman, Charmain Bogue Quoted, Executive.gov (March 29, 2021), <https://executive.gov.com/2021/03/accenture-federal-services-secures-453m-va-it-contract-shawn-roman-charmain-bogue-quoted/>.

- a. Based upon your personal knowledge, what role did each of these individuals have in steering these contract awards?
- b. What was their role in determining which contractors or subcontractors would be selected, and in selecting the evaluation body reviewing the bid?
- c. Are you aware that former Undersecretaries Pummill and Hickey are direct beneficiaries of this contract?
- d. According to USSpending.gov, tens of millions of dollars have been allocated in contracts to their privately held companies. Does this raise concerns for you?
- e. Have there been allegations or concerns regarding acquisition improprieties by Mr. Pummill or Ms. Hickey in the past? If so, were they investigated?
- f. Were you aware during your time as Senior Advisor to multiple VA secretaries of any concerns regarding contract irregularities by VBA, including diversion of funds away from VBA programs intended to support Veterans by either Ms. Hickey or Mr. Pummill, or the redirection of funds away from the Education/GI Bill?
- g. How do you and your staff maintain proper distance between VA matters and former officials now seeking VA contracts?
- h. Are there currently recusals in place by you or your leadership team? If so, please provide all records.