

# United States Senate

WASHINGTON, DC 20510

May 3, 2017

The Honorable David J. Shulkin  
Secretary  
U.S. Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dear Secretary Shulkin:

The Committee on Homeland Security and Governmental Affairs is examining alleged retaliation against Dr. Dale Klein, a pain management physician at the John J. Pershing Veterans Affairs Medical Center in Poplar Bluff, Missouri (Poplar Bluff VAMC). Dr. Klein alleges that he faced reprisal after disclosing a number of problems involving the pain management clinic at the Poplar Bluff VAMC. We ask for your assistance with this important matter.

In January 2017, Chairman Johnson wrote to Acting Secretary Robert Snyder requesting that the VA comply fully with orders from the Merit Systems Protection Board (MSPB) and with all requests from the Office of Special Counsel (OSC) regarding Dr. Klein.<sup>1</sup> Acting Secretary Snyder's response asserted several new facts and arguments about Dr. Klein's case that it had not raised to the MSPB.<sup>2</sup> It is unclear whether the VA provided these new facts and arguments—or any documentary evidence supporting them—to OSC. To better understand the nature of these assertions, Chairman Johnson's staff requested more clarity and supporting evidence from the VA.<sup>3</sup> Although OSC has informed Chairman Johnson's staff that it has no objection to the VA providing this information to the Committee,<sup>4</sup> the VA has not yet fulfilled these requests.

Dr. Klein reports that he continues to face retaliation and harassment at the Poplar Bluff VAMC.<sup>5</sup> Dr. Klein also alleges that the VA is not cooperating with his attempts to comply with an investigation by the VA Office of Inspector General (OIG) into drug diversion, delays in patient care, and the quality of care at the Poplar Bluff VAMC.<sup>6</sup> As the VA OIG conducts its examination, it is imperative that the VA does nothing that could be construed as preventing or delaying the OIG from obtaining a complete record of the facts at issue.

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<sup>1</sup> Letter from Senator Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Robert Snyder, Acting Secretary, Dep't of Veterans Affairs (Jan. 28, 2017).

<sup>2</sup> See *U.S. Off. of Special Counsel Ex rel. Dr. Dale Klein v. U.S. Dep't of Veterans Affairs*, No. CB-1208-16-0023-U-1, Agency Response to U.S. Office of Special Counsel's Second Request for Extension of Stay of Personnel Actions (Sept. 2, 2016).

<sup>3</sup> Email from Committee Majority staff to U.S. Dep't of Veterans Affairs representative (Feb. 22, 2017, 15:41 EDT).

<sup>4</sup> Email from U.S. Office of Special Counsel representative to Committee majority staff (Mar. 30, 2017, 17:12 EDT).

<sup>5</sup> Information provided to Committee Majority staff by Dr. Dale Klein.

<sup>6</sup> Information provided to Committee Majority staff by Dr. Dale Klein; Information provided by the U.S. Dep't of Veterans Affairs Off. of Inspector Gen.

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Our veterans deserve the utmost level of care and support from the VA, and medical professionals must be free to disclose concerns about veterans' care. Therefore, we respectfully request that you direct all VA employees to cease any retaliation<sup>7</sup> against Dr. Klein and to cooperate fully and promptly with investigations by the VA OIG and OSC. In addition, we ask that you please provide the following information:

1. Please explain what steps the VA is taking under your leadership to comply fully with the MSPB's order "prohibiting any change to Dr. Klein's salary, grade level, duty station."<sup>8</sup>
2. Please explain what steps the VA is taking under your leadership to comply fully and promptly with the MSPB matter,<sup>9</sup> the OSC investigation, and the OIG investigation regarding Dr. Klein;
3. Please explain what steps the VA is taking under your leadership to address Dr. Klein's workplace concerns and disclosures and to ensure that Dr. Klein does not suffer retaliation for disclosing pain management problems at the Poplar Bluff VAMC.

Please provide this information as soon as possible but no later than 5:00 p.m. on May 17, 2017.

If you have any questions regarding this letter, please ask your staff to contact Courtney Allen of Chairman Johnson's staff at (202) 224-4751 and Saundra Shropshire of Ranking Member McCaskill's staff at (202) 224-2630. Thank you for your attention to this matter.

Sincerely,



Ron Johnson  
Chairman



Claire McCaskill  
Ranking Member

cc: The Honorable Michael Missal  
Inspector General

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<sup>7</sup> Phone communication between Committee Majority staff and U.S. Office of Special Counsel representative (April 19, 2017, 10:30 EDT).

<sup>8</sup> See *U.S. Off. of Special Counsel Ex rel. Dr. Dale Klein v. U.S. Dep't of Veterans Affairs*, No. CB-1208-16-0023-U-1, Agency Response to U.S. Office of Special Counsel's Second Request for Extension of Stay of Personnel Actions (Sept. 2, 2016).

<sup>9</sup> See *U.S. Off. of Special Counsel Ex re. Dr. Dale Klein v. U.S. Dep't of Veterans Affairs*, No. CB-1208-16-0023-U-4, Order on Stay Request (Sept. 13, 2016). See also *U.S. Off. of Special Counsel Ex re. Dr. Dale Klein v. U.S. Dep't of Veterans Affairs*, No. CB-1208-16-0023-U-5, Order on Stay Request (Nov. 10, 2016).

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U.S. Department of Veterans Affairs

The Honorable Carolyn Lerner

Special Counsel

U.S. Office of Special Counsel

The Honorable Mark A. Robbins

Member

U.S. Merit Systems Protection Board

The Honorable Roy Blunt

U.S. Senator

The Honorable Jason Smith

U.S. Representative