

**NOMINATIONS OF THE 113TH CONGRESS,
SECOND SESSION**

HEARING
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRTEENTH CONGRESS
SECOND SESSION

—————
JULY 22 AND DECEMBER 4, 2014
—————

Printed for the use of the Committee on Veterans' Affairs



Available via the World Wide Web: <http://www.fdsys.gov>

—————
U.S. GOVERNMENT PUBLISHING OFFICE

91-804 PDF

WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON VETERANS' AFFAIRS

BERNARD SANDERS, (I) Vermont, *Chairman*

JOHN D. ROCKEFELLER IV, West Virginia	RICHARD BURR, North Carolina, <i>Ranking Member</i>
PATTY MURRAY, Washington	
SHERROD BROWN, Ohio	JOHNNY ISAKSON, Georgia
JON TESTER, Montana	MIKE JOHANN, Nebraska
MARK BEGICH, Alaska	JERRY MORAN, Kansas
RICHARD BLUMENTHAL, Connecticut	JOHN BOOZMAN, Arkansas
MAZIE K. HIRONO, Hawaii	DEAN HELLER, Nevada

STEVE ROBERTSON, *Staff Director*

LUPE WISSEL, *Republican Staff Director*

C O N T E N T S

JULY 22, 2014

SENATORS

	Page
Sanders, Hon. Bernard, Chairman, U.S. Senator from Vermont	1
Burr, Hon. Richard, Ranking Member, U.S. Senator from North Carolina	3
Brown, Hon. Sherrod, U.S. Senator from Ohio	5
Murray, Hon. Patty, Chairman, U.S. Senator from Washington	7
Isakson, Hon. Johnny, U.S. Senator from Georgia	8
Tester, Hon. Jon, U.S. Senator from Montana	9
Johanns, Hon. Mike, U.S. Senator from Nebraska	10
Hirono, Hon. Mazie K., U.S. Senator from Hawaii	11
Heller, Hon. Dean, U.S. Senator from Nevada	11
Rockefeller, Hon. John D., IV, U.S. Senator from West Virginia	13
Moran, Hon. Jerry, U.S. Senator from Kansas	14
Blumenthal, Hon. Richard, U.S. Senator from Connecticut	15
Boozman, Hon. John, U.S. Senator from Arkansas	16
Begich, Hon. Mark, U.S. Senator from Alaska	17

WITNESSES

Portman, Hon. Rob, U.S. Senator from Ohio	6
McDonald, Robert A., nominee to be Secretary, U.S. Department of Veterans Affairs	19
Prepared statement	22
Response to prehearing questions submitted by Hon. Bernard Sanders	24
Questionnaire for Presidential nominees	29
Letters from the Office of Government Ethics	43
Letter from the nominee to the Office of General Counsel, U.S. Department of Veterans Affairs	44

APPENDIX

Bless, Dennis C., CRNA, MS, President, American Association of Nurse Anesthetists (AANA); prepared statement	71
Henkel, Robert J., FACHE, President and Chief Executive Officer, Ascension Health; letter	72
National nursing organizations; letter	73

DECEMBER 4, 2014

NOMINATION OF LEIGH A. BRADLEY TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF VETERANS AFFAIRS

SENATORS

Sanders, Hon. Bernard, Chairman, U.S. Senator from Vermont	75
Isakson, Hon. Johnny, U.S. Senator from Georgia	103

WITNESSES

Bradley, Leigh A., nominee to be General Counsel, U.S. Department of Veterans Affairs	75
Prepared statement	77

IV

	Page
Bradley, Leigh A., nominee to be General Counsel, U.S. Department of Veterans Affairs—Continued	
Response to prehearing questions submitted by Hon. Bernard Sanders	78
Response to posthearing questions from:	
Hon. Richard Blumenthal	83
Hon. Johnny Isakson	84
Hon. Dean Heller	87
Questionnaire for Presidential nominees	89
Letter from the Office of Government Ethics	101
Letter from the nominee to the Office of General Counsel, U.S. Department of Veterans Affairs	102

APPENDIX

Heller, Hon. Dean, U.S. Senator from Nevada; prepared statement	105
---	-----

**NOMINATION OF LEIGH A. BRADLEY TO BE
GENERAL COUNSEL OF THE U.S. DEPART-
MENT OF VETERANS AFFAIRS**

THURSDAY, DECEMBER 4, 2014

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:01 a.m., in room SR-418, Russell Senate Office Building, Hon. Bernard Sanders, Chairman of the Committee, presiding.

Present: Senators Sanders and Isakson.

**OPENING STATEMENT OF HON. BERNARD SANDERS,
CHAIRMAN, U.S. SENATOR FROM VERMONT**

Chairman SANDERS. We are going to convene the hearing. There are a number of votes today, so Senator Isakson and I would like to move this along as quickly as possible.

Leigh Bradley, you have been nominated by the President to be General Counsel at the VA. Would you like to say a few words?

Ms. BRADLEY. Thank you. I would. Chairman Sanders, Rank-
ing—

Chairman SANDERS. Oh, I am sorry. I have to swear you in. I apologize. If you could stand and raise your right hand, please.

Do you solemnly swear or affirm that the testimony you are about to give before the Senate Committee on Veterans' Affairs will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. BRADLEY. I do.

Chairman SANDERS. Thank you. Please continue.

**STATEMENT OF LEIGH A BRADLEY, NOMINATED TO BE GEN-
ERAL COUNSEL, U.S. DEPARTMENT OF VETERANS AFFAIRS**

Ms. BRADLEY. Chairman Sanders, Ranking Member Burr, distinguished Members of the Committee on Veterans' Affairs, thank you so much for the opportunity to testify before you today. I am humbled and honored to have been nominated by President Obama to be VA General Counsel and grateful to Secretary McDonald and Deputy Secretary Gibson for their confidence in me.

Mr. Chairman, from the start of my legal career in 1987 as an active duty Air Force Judge Advocate to my present position as the Director of the Department of Defense Standards of Conduct Office, I have been guided by a deep and personal commitment to our Nation's Armed Forces and its veterans.

I come from a long and proud line of military veterans. My father is a Vietnam veteran who served as a career officer in the Army Corps of Engineers. Both of my grandfathers served in the U.S. Army, one in World War I and one in World War II. My husband served for 20 years as an active duty Air Force Judge Advocate. And, my brother-in-law currently serves as an Air Force B-1 weapons systems operator.

Finally, and I say this with great pride and joy, my daughter has decided to follow in the family's footsteps. She is a Second Lieutenant in the Air Force, studying to be a doctor at the Uniformed Services University of the Health Sciences at Walter Reed. I am immensely proud of her decision to continue our family's tradition of service in uniform.

I have spent the majority of my legal career supporting the mission of the Armed Forces and the needs of our Nation's veterans. After 5 years on active duty, I was selected for a civilian position in the DOD Office of General Counsel. Later, I served as the Principal Deputy General Counsel of the Navy, the second highest ranking civilian attorney in an office of over 600. In 1998, 15 years ago, I was nominated by President Clinton and confirmed by the Senate to be General Counsel of the Department of Veterans Affairs. And, in my current position, I advise the senior DOD leadership on ethical compliance and creating and sustaining ethical cultures across the Department.

I was also fortunate to have served in senior positions in the private sector for 7 years, first as a partner at Holland and Knight, a national law firm, and then as Chief of Staff and Chief Risk Officer of the American Red Cross. These positions instilled the discipline and accountability that follow from regularly meeting a bottom line and delivering concrete results that meet the expectations of a broad range of parties, including paying clients, charitable donors, and a board of directors.

My family background and legal career have inspired in me an abiding respect and appreciation for the contributions of the men and women currently serving in uniform and every generation of our veterans who have, throughout our history, selflessly demonstrated their willingness to defend our country's interests with their lives. I absolutely believe that it is VA's sacred duty to care for these patriots.

Of late, however, VA has not met its responsibilities fully and obligations to its veterans and we must make restoring their trust our top priority. To quote Secretary McDonald, "The seriousness of this moment demands urgent action." I am deeply inspired by the dedication, vision, and leadership of Secretary McDonald and Deputy Secretary Gibson. While this is, indeed, a challenging time at VA, it is also an exciting and transformative time in which the leaders of the Department, in cooperation with Congress, Veterans Service Organizations, and other veteran stakeholders, can collaborate to reform and improve services to our veterans.

Yes, there is hard work to be done, but for me, there is no higher calling than to be part of the historic movement which will have lasting positive impacts on the care and benefits we deliver to veterans and the way VA operates going forward.

Accordingly, if confirmed, I will work closely with the VA leadership team to strengthen the Department's ability to serve our Nation's veterans and restore trust to them with Congress and with the American public. I will do all in my power to provide thoughtful expert advice and counsel on all legal matters, including those associated with the implementation of both the Veterans Choice Act and MyVA, as well as the legal issues associated with improving access to medical care, delivery of better services and benefits to our veterans, protecting the rights of whistleblowers, and helping to ensure that the processes to hold employees accountable for wrongdoing are expedient, fair, and defensible. I will do this by exemplifying VA's core values of integrity, commitment, advocacy, respect, and excellence.

Finally, I would not be here today without the unwavering encouragement of my family, starting with my mom and dad, Jackie and Phil Bradley, and the constant support and love of my husband of over 30 years, Doug Wade, and our daughter, Lieutenant Jacqueline Wade, both of whom accompany me today.

Thank you again, Mr. Chairman and Members of the Committee, for your consideration of my nomination. I would be happy to answer any questions you may have and ask that this statement be entered into the record.

[The prepared statement of Ms. Bradley follows:]

PREPARED STATEMENT OF MS. LEIGH BRADLEY, NOMINEE TO BE GENERAL COUNSEL,
U.S. DEPARTMENT OF VETERANS AFFAIRS

Chairman Sanders, Ranking Member Burr, distinguished Members of the Committee on Veterans' Affairs, Thank you for the opportunity to testify before you today. I am humbled and honored to have been nominated by President Obama to be VA General Counsel, and grateful to Secretary McDonald, and Deputy Secretary Gibson for their confidence in me.

Mr. Chairman, from the start of my legal career in 1987 as an active-duty Air Force Judge Advocate to my present position as Director of the Department of Defense (DOD) Standards of Conduct Office, I have been guided by a deep and personal commitment to our Nation's Armed Forces and its Veterans. I come from a long, proud line of military Veterans. My father is a Vietnam Veteran who served as a career officer in the Army Corps of Engineers. Both of my grandfathers served in the U.S. Army—one in World War I and the other in World War II. My husband served for 20 years as an Air Force Judge Advocate, and my brother-in-law currently serves as an Air Force B-1 Weapons Systems Operator.

Finally, and I say this with great joy and pride, my daughter has decided to follow in the family's footsteps. She is a 2nd Lieutenant in the Air Force, studying to be a doctor at the Uniformed Services University of the Health Sciences at Walter Reed. I am immensely proud of her decision to continue our family's tradition of service in uniform.

I have spent the majority of my legal career supporting the mission of the Armed Forces and the needs of our Nation's Veterans. After five years on active duty, I was selected for a civilian position in the DOD Office of the General Counsel. Later, I served as the Principal Deputy General Counsel of the Navy, the second highest ranking civilian attorney in an office of over 600. In 1998, I was nominated by President Clinton and confirmed by the Senate to be General Counsel of the Department of Veterans Affairs. And in my current position, I advise the senior DOD leadership on ethical compliance and creating and sustaining ethical cultures across the Department.

I also was fortunate to have served in senior positions in the private sector for seven years—first, as a partner at Holland and Knight LLP, a national law firm, and then as Chief of Staff and later Chief Risk Officer of the American Red Cross. These positions instilled the discipline and accountability that follow from regularly meeting a bottom line and delivering concrete results that meet the expectations of a broad range of parties, including paying clients, charitable donors, and a board of directors.

My family background and legal career have inspired in me an abiding respect and appreciation for the contributions of the men and women currently serving in uniform and every generation of our Veterans, who have, throughout the history of our Nation, selflessly demonstrated their willingness to defend our country's interests with their lives. I absolutely believe that it is VA's sacred duty to care for these patriots.

Of late, however, VA has not fully met its responsibilities and obligations to Veterans, and we must make restoring their trust our top priority. To quote Secretary McDonald, "the seriousness of this moment demands urgent action." I am deeply inspired by the dedication, vision, and leadership of Secretary McDonald and Deputy Secretary Gibson. While this is a challenging time at VA, it is also an exciting and transformative time in which the leaders of the Department, in cooperation with Congress, Veterans Service Organizations, and other Veterans' stakeholders can collaborate to reform and improve services to Veterans.

Yes, there is hard work to be done. But for me, there can be no higher calling than to be part of this historic moment which will have lasting, positive impacts on the care and benefits we deliver to Veterans and the way VA operates going forward.

Accordingly, if confirmed, I will work closely with the VA leadership team to strengthen the Department's ability to serve our Nation's Veterans and restore trust with them, with Congress, and with the American public. I will do all in my power to provide thoughtful, expert advice and counsel on all legal matters including those associated with the implementation of both the Veterans Choice Act and MyVA (the Secretary's ground-breaking initiative to bring a singular focus on customer service to Veterans), improving access to medical care, better delivery of other VA services and benefits, protecting the rights of whistleblowers, and helping to ensure that the processes to hold employees accountable for wrong-doing are expedient, fair, and defensible. I will do this by exemplifying VA's core ethical values of integrity, commitment, advocacy, respect, and excellence.

Finally, I would not be here today without the unwavering encouragement of my family starting with my Mom and Dad, Jackie and Phil Bradley, and the constant support and love of my husband of over 30 years, Doug Wade, and our daughter LT Jacqueline Wade, both of whom accompany me today.

Thank you again, Mr. Chairman and Members of the Committee, for your consideration of my nomination. I would be happy to answer any questions you may have, and I would ask that this statement be entered into the record.

RESPONSE TO PREHEARING QUESTIONS SUBMITTED BY HON. BERNARD SANDERS TO
MS. LEIGH BRADLEY, NOMINEE TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF
VETERANS AFFAIRS

Question 1. What are the most pressing challenges confronting the Office of General Counsel and, if confirmed, what steps would you take to immediately begin addressing these challenges?

Response. Any in-house law firm's greatest challenges are necessarily the same as its client organization's. Secretary McDonald recently framed the key challenges facing the Department of Veterans Affairs at this moment in time. The Secretary said that VA must first restore the trust it has lost—the trust of our veterans and of our stakeholders, including the Congress and the American public. To do that, VA must promptly and successfully implement the Veterans Access, Choice, and Accountability Act (VACAA) to ensure Veterans receive timely access to health care. Second, VA must transform into a veteran-centric agency, organized to provide service and information to our veteran customers with a minimum of difficulty or confusion. Third, VA must ensure sustainable leadership accountability throughout the Department.

The Office of General Counsel shares these challenges with VA, and OGC personnel must devote their work and energy to ensuring VA realizes these goals. OGC attorneys have already done much in this regard, and—if confirmed—I will ensure that OGC actively assists VA in driving this work to conclusion. With OGC's assistance, VA must continue to ensure VACAA is implemented seamlessly, without confusion, and without creating hardships for veterans. Similarly, OGC must actively assist the Department in transforming to achieve Secretary McDonald's MyVA mission. To achieve sustainable leadership accountability, OGC must continue to support VA's exercise of its new authorities for addressing senior executive discipline and performance. OGC must energetically and effectively support and counsel VA in its efforts to transform VA continue in the near term and beyond.

I would also, if confirmed, identify ways in which OGC can improve its own operations, to better support its client's success. I believe, for example, that success in reestablishing trust will require openness and transparency in all that VA does, and that the OGC has a vital role to play in providing prompt and vital support in this area.

Question 2. You served as VA's General Counsel from 1998 to 2001. What lessons did you learn from that experience that would aid you, if confirmed, in serving again as General Counsel?

Response. When I was confirmed to be VA General Counsel in 1998, I was 42 years old and had served in only one significant leadership position prior to that—Principal Deputy General Counsel of the Navy. During my service as VA General Counsel from 1998–2001, I learned of the extraordinary commitment to mission and deep legal expertise of the staff of the Office of General Counsel.

In that role and subsequent senior executive roles at the American Red Cross and more recently at DOD, I have learned important management lessons that have underscored the need for any General Counsel of a large organization like VA to possess superb leadership skills. As VA continues to grapple with its most significant crisis in a generation, it is especially critical that its chief legal officer be a strong leader.

If I am fortunate enough to be confirmed again to serve as VA General Counsel, I will leverage the important management lessons I have learned over the past 16 years about how to be a principled, effective, and responsive leader. Specifically I will lead with a clear purpose that is tied directly to the strategic goals established by the Secretary. I will set the ethical tone for OGC's large, decentralized office by modeling VA's fundamental ethical values in all my actions. I will apply my leadership experience to help ensure that OGC delivers excellent results and work products in a timely manner. I will endeavor to get the right OGC leaders in the right positions, which is one of the hardest, but most important responsibilities of leadership. I also will ensure OGC recruits and develops legal talent with a genuine passion for VA's mission and commitment to our Nation's Veterans. I will regularly encourage OGC attorneys to collaborate with their clients up-front in the initial stages of policy development and not wait to simply conduct a legal sufficiency review at the end of the process. I will establish and maintain an atmosphere in which every member of OGC feels comfortable reporting "bad news" to the boss and encourage all to help develop solutions to identified concerns. Importantly, I will hold myself and others in OGC accountable for fulfilling these responsibilities to the Department, the Nation's Veterans, and the public at large.

Question 3. Please describe the duties and responsibilities you were assigned during your recent detail as Special Counsel to the Acting Secretary and Secretary of Veterans Affairs.

Response. I was brought in by the VA leadership in the midst of the crisis out of Phoenix to focus on two things: leader accountability and whistleblower retaliation.

As Secretary McDonald has repeatedly emphasized, to regain Veterans' trust in their VA, we must restore their faith in the leaders who set the course for the Department and the managers and supervisors who carry out leadership's policies and plans. The vast majority of VA employees are deeply and personally committed to the mission and values of the organization. Yet we know that some in the Department have violated the core value of integrity, have underperformed and failed to deliver on the mission, or have created a work environment where employees did not feel safe coming forward to voice concerns or identify emerging problems. VA cannot serve our Veterans effectively unless we hold employees accountable for such wrong-doing, and do so as expeditiously as the law allows.

To promote a culture of sustainable accountability, then-Acting Secretary Gibson established a multidisciplinary accountability review team and asked me to oversee its work during my four-month detail to VA. Comprised of employee relations specialists, attorneys, and administrative investigators, the team developed a model and standard practices for: (1) evaluating allegations of leadership misconduct and poor performance; and (2) when necessary, convening Administrative Investigation Boards to determine leader culpability and develop a sound evidentiary record. While these efforts have been underway for only a few months, they have helped to ensure that VA's leader accountability actions are expedient, fair, defensible, and always grounded in improving service to Veterans.

I also was charged to help the Department focus on whistleblower retaliation and facilitate VA's relationship with the Office of Special Counsel. Whistleblowers do VA—and other agencies—a tremendous service. We rely on employees on the ground, in the front lines, to identify problems and opportunities to improve. Some

supervisors respond positively when concerns are raised, but others get defensive and may want to blame the messenger. Employees who voice concerns understandably fear they will be punished for speaking out. We need everyone to understand and comply with the whistleblower protection laws so people feel comfortable speaking out and supervisors don't react defensively.

Question 4. VA's culture has been described as corrosive and nonresponsive. How do you change the culture of a large public organization? What actions, if confirmed, would you recommend or take in order to address the cultural problems faced by VA?

Response. I believe that in order to change the culture of any large organization, the tone must be set at the top. Secretary McDonald set that tone powerfully on his first day in office by committing publicly to foster a Department that lives by its core values of integrity, commitment, advocacy, respect, and excellence. I know from experience that an organization that establishes and embraces fundamental ethical values is also likely to create a work environment in which employees feel comfortable raising concerns and do not fear retaliation for bringing bad news to the boss. Such an open environment promotes collaboration, productivity, and even innovation. Now, more than ever, as VA addresses significant challenges to restore the public's trust, we must examine and remedy systemic failures that suggest that some in the Department have lost track of VA's sacred mission and core values. My experience developing and implementing DOD's leader-led, values-based training over the past two years prepares me well to assist the Secretary and Deputy Secretary bring about needed culture change at VA and if confirmed, I will make this effort a top priority.

Question 5. What role should the Office of General Counsel play in both preventing and addressing instances of whistleblower retaliation?

Response. Secretary McDonald has said that he wants all employees to be whistleblowers; that everybody should feel a responsibility for improving the way we serve veterans. If something is not going right we should change it. He wants employees to feel empowered to identify problems and improvements and safe from any reprisal if they do.

The Office of General Counsel has a significant role to play in both preventing and addressing instances of whistleblower reprisal. The Office has been and must continue to be active in educating and advising the Department's leadership and the entire workforce on the rights and protections of employees to be free from illegal reprisal for protected disclosure. OGC has recently taken the lead in ensuring that VA complied with the requirements of OSC's Whistleblower Certification Program. Under this program OSC certifies Federal agencies that meet the statutory obligations to inform their workforces about the rights and remedies available to them under the Whistleblower Protection Act (WPA) and the Whistleblower Protection and Enhancement Act (WPEA), and related civil service laws. OGC worked closely with VA's Office of Human Resources and Administration and other VA Administrations and Staff Offices. On October 3, 2014, VA was certified by OSC under OSC's 2302(c) Whistleblower Protection Certification Program. OGC also developed and is presenting training to VHA senior leadership on prohibited personnel practices and whistleblower rights and protections and has developed and is presenting training to new VA SES employees on Ethical Leadership, including the avoidance of PPP.

The Office of General Counsel also plays an important role in addressing and correcting allegations of reprisal. OGC is the principal liaison with the Office of Special Counsel and is responsible for coordinating OSC referrals of whistleblower complaints. OGC is responsible for transmittal of the Department's reports to OSC. In response to a request from OSC to develop a new process for handling an upsurge of whistleblower retaliation cases that OSC has been receiving since the VA Access to Care crisis, OGC designated a centralized point of contact (POC) to work with OSC on retaliation complaints related to scheduling, patient care, understaffing issues, and related matters.

Additionally, when it has been determined that illegal reprisal has occurred, OGC must be available to counsel leadership concerning appropriate measures for holding employees accountable. When disciplinary action is taken, the General Counsel must be a forceful and effective advocate for the Department before the MSPB, EEOC or FLRA if the action is appealed.

Question 6. In your current role as Director of the Department of Defense (DOD) Standards of Conduct Office, you are responsible for DOD's ethics program and policies. Secretary McDonald has made the Department's core values—integrity, commitment, advocacy, respect, and excellence—a baseline for the standard of behavior expected of VA employees. What lessons have you learned during your service as

the Director of DOD's Standards of Conduct Office that would aid you in offering recommendations to foster adherence to VA's core values?

Response. The principal reason why after a number of years in the private sector and at DOD as a career Senior Executive Service employee I agreed to be considered for the position of VA General Counsel, having served in the job 15 years ago, is Secretary McDonald's lifelong commitment to "values-based leadership," and his appeal to me to reflect on how I might be able to help the VA leadership team inculcate fundamental ethical values in all of VA's business dealings. Shortly after his confirmation, the Secretary explained publicly that a critical step in assuring appropriate care for veterans is restoring their trust in the system and then asked every VA employee to recommit to the Department's mission and fundamental ethical values—the I-CARE values.

I believe that such a commitment is central to public service and have devoted the past few years of my professional life to incorporating core ethical values into DOD's ethics program. After serving as the Director of the DOD Standards of Conduct Office for several years, I concluded there was a risk that "ethics" was turning into nothing more than a rules-based compliance effort led predominantly by lawyers. I studied private sector models, including Procter & Gamble's (developed by then CEO McDonald) and consulted leaders in the Defense contractor community and determined that a sustainable ethical business culture that engenders public trust must be established and reinforced by organization leaders at every level (with lawyers in a supporting role) and should be equal parts compliance (with the ethics rules) and values-based decisionmaking (e.g., evaluating an action to determine whether it is the right thing to do when the rules do not provide a clear answer). If confirmed, I pledge to work tirelessly with VA leaders to reinvigorate the Department's ethical culture so that veterans, indeed the American public, can be confident that VA's business policies and practices are grounded in fundamental ethical values and that those in the Department who do not exemplify these values and have violated the public's trust are held accountable.

Question 7. In August 2013, the Government Accountability Office (GAO) published a report titled "VA Benefits: Improvements Needed to Ensure Claimants Receive Appropriate Representation." In order to improve the integrity of VA's accreditation program, GAO made four recommendations. VA has taken steps to address GAO's recommendations; however as of November 17, 2014 all four recommendations remain open.

a. In your opinion, is the Office of General Counsel the appropriate office to operate and have responsibility for the accreditation program?

Response. While I have not had an opportunity to study this issue in detail, I am aware from my previous tenure as VA General Counsel that managing the accreditation program entails administrative and adjudicative duties that differ from the traditional role of the Office of General Counsel as legal advisor to the Department. On the other hand, there are logical reasons for VA's Office of General Counsel to be involved in the regulation of attorneys and other representatives. Regardless of where in VA the responsibility for this program lies, the Department must diligently carry out its duties to ensure that deserving Veterans have access to responsible, qualified representation by individuals who are accredited by VA.

b. What ideas do you have for strengthening and improving VA's accreditation system especially in regards to the program's ability to respond to reports of inappropriate conduct on the part of an accredited agent, attorney or representative?

Response. During my previous tenure as VA General Counsel, my recollection is that OGC conducted its first investigation of a complaint of inappropriate activities by a claims agent. Recently, I have been informed that the accreditation program has seen positive results from collaboration with State law enforcement agencies. If confirmed, I will make sure that OGC does everything it can to protect claimants from claims agents and accredited representatives who behave in inappropriate ways.

Question 8. What role do you believe the General Counsel should play in evaluating legislation, both introduced in Congress and proposed by VA, for legal sufficiency and impact?

Response. By law, the General Counsel is the chief legal officer of the Department and provides legal assistance to the Secretary concerning the programs and policies of the Department. In order to carry out his duties and responsibilities, the Secretary must be able to rely on authoritative expert legal advice concerning a broad array of issues, including the legal sufficiency and effect of proposed legislation. It is my view that advising on the legal implications of introduced or proposed legislation is a primary responsibility of the Office of General Counsel. Of course, the Office of General Counsel also must work closely with the Office of Congressional and

Legislative Affairs and the Administrations when reviewing and responding to proposed legislation or when developing Department legislative proposals. Rigorous and meaningful consultation upfront helps to ensure that legislation fulfills its intended purpose.

Question 9. What role do you believe the General Counsel should play in responding to decisions of the US Court of Appeals for Veterans Claims and other courts? For example, should the General Counsel provide advice about the meaning of a decision or play a role in ensuring compliance with decisions?

Response. When I last served in OGC, the office played a key role in assisting VA program offices in understanding and implementing court decisions. In instances where a decision of the Court of Appeals for Veterans Claims (CAVC) or the Court of Appeals for the Federal Circuit establishes a governing rule of law concerning the meaning of a statute, regulation, or other legal authority, it is my view that OGC should work closely with the relevant program experts to ensure that the governing legal standard is understood. I believe it is also critical that OGC provide legal advice and assistance to help program offices ensure compliance with these rulings. If a court decision identifies concerns or errors, but leaves room for the exercise of policy judgment and discretion in developing corrective action, OGC must ensure that the program office understands the legal parameters of that discretion when making program office decisions.

Question 10. VA must continue to make progress in improving the timeliness and quality of VA's claims adjudication process. What is the appropriate role for the Office of General Counsel to play in VA's ongoing claims transformation? What ideas do you have that would complement existing transformation efforts?

Response. Throughout the course of VA's ongoing efforts to improve the timeliness and quality of its claims adjudication process, OGC has worked closely with the Veterans Benefits Administration (VBA) and other offices to evaluate proposed improvements to VA's processes. OGC plays a vital role in identifying and evaluating legal issues associated with proposed process improvements and in assessing whether proposals for change may be implemented under VA's existing authority or require statutory or regulatory amendments. I am aware that OGC attorneys are involved in the Appeals Modernization effort, working with VBA and the Board of Veterans Appeals (BVA) to evaluate ways to improve the appeals process, to include enhancements to VBMS, VBA's electronic claims adjudication system designed to improve information sharing, eliminate duplication of effort, and streamline the overall process.

Through its role representing VA in appeals before the Court of Appeals for Veterans Claims, OGC also is uniquely positioned to identify recurring issues in VA adjudications that result in remands and delay. These insights allow OGC to assist VBA and BVA in proactively identifying areas where process and policy improvements or targeted training may enhance the timeliness and accuracy of the claims adjudication and appeal process. I am mindful of the value of identifying improvements to the appeals process that would complement VA's ongoing transformation efforts by rendering this process more transparent and customer-friendly for veterans. If confirmed, I will ensure that OGC is there to assist in the effort to the fullest extent.

Question 11. Ongoing and meaningful collaboration between VA and DOD holds promise for addressing many of the challenges, such as timely access to care and benefits, currently confronting the Department. Are you aware of any statutory or other legal impediments that impede the Departments' ability to increase collaboration, cooperation or resource?

Response. I am generally aware that VA and DOD have effectively engaged in numerous joint ventures and collaborations over recent years. For example, VA and Navy have established a fully integrated health facility at the Captain James A. Lovell Federal Health Care Center (FHCC) in North Chicago, IL. It is my understanding that this project was initiated using existing authorities. That suggests that VA and DOD have some significant flexibility to collaborate. However, I am also aware that Congress enacted specific legislation that enabled the FHCC to operate as a more fully integrated facility. I am presently not aware of a need for additional authority to carry out any currently proposed projects, but as collaboration between the two Departments grows, we very well may identify such a need. If confirmed, I hope to be able to leverage my longstanding and close relationships with key DOD leaders, developed over almost 20 years of service in the Office of the Secretary of Defense, Department of the Navy, and U.S. Air Force, to assist VA in identifying and pursuing additional collaborative partnerships with DOD.

Question 12. Do you agree to provide the Committee with timely technical assistance on pending legislation?

Response. If confirmed, I agree to provide the Committee with timely technical assistance.

Question 13. Do you agree to supply the Committee with such non-privileged information, materials, and documents as may be requested by the Committee in its oversight and legislative capacities for so long as you serve in the position of General Counsel?

Response. If confirmed, I agree to work with the Committee to accommodate all requests for non-privileged information, materials, and documents.

Question 14. Do you agree to appear before the Committee as such times and concerning such matters as the Committee might request for so long as you serve in the position of General Counsel?

Response. If confirmed, I agree to appear before the Committee to be responsive to the Committee's requests.

RESPONSE TO POSTHEARING QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO LEIGH A. BRADLEY, NOMINEE TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF VETERANS AFFAIRS

PROSECUTION OF POTENTIAL CRIMINAL VIOLATIONS

Question 1. As you know, the VA Office of Investigations opened investigations at 93 sites of care in response to allegations of wait time manipulations. These investigations specifically seek to determine whether management ordered schedulers to falsify wait times and Electronic Waiting List records or attempted to obstruct OIG or other investigative efforts. I hope that the VA OIG will continue to cooperate with the Department of Justice and the FBI in conducting investigations to determine potential criminal intent. Holding criminal violators accountable is essential to the VA reform process in order to restore confidence in the VA among our veterans.

Ms. Bradley, how do you envision the role of the General Counsel in these criminal investigations? How do you plan to work with law enforcement to ensure that appropriate leadership at the VA is held accountable for wrongdoing and potential criminal misconduct?

Response. The Office of General Counsel is not charged with and does play a direct role in criminal investigations conducted by the VA Office of Inspector General or the Federal Bureau of Investigations. Neither does the General Counsel advise the Department of Justice on decisions concerning prosecution of Federal employees alleged to have committed criminal acts. However, if DOJ concludes that prosecution is not warranted, the evidence collected and facts found by the OIG, DOJ and FBI investigators will be reviewed by the Department to determine what, if any, administrative actions may be appropriate.

In the event administrative disciplinary action is determined to be appropriate, the Office of General Counsel will provide legal advice and services necessary to effectuate and defend such actions. Secretary McDonald and Deputy Secretary Gibson have made it clear that holding VA employees accountable is a top priority as they work to restore public trust in VA. I will work tirelessly to support those efforts.

RESPONDING TO INADEQUACIES AND TERMINATING LEADERSHIP

Question 2. I have heard from Connecticut VA nurses that despite success in nursing school, they are not adequately trained at the VA yet are assigned full nursing responsibilities, risking patient safety. Adequate training for nurses is a challenge across the health care industry, but one constituent expressed her concerns to her supervisors about lack of training and inadequate staffing and found her career threatened.

Ms. Bradley, if confirmed as General Counsel, you will be responsible for balancing the VA's requirement to protect employees who express inadequacies while also following through on Secretary MacDonald's commitment to terminate those providing inadequate care. Could you please speak to your qualifications that will enable you to balance these obligations and ensure that appropriate employee decisions are made?

Response. VA's primary mission is to provide the best care possible for our Veterans. To accomplish this mission, VA employees must have faith that their work environment is open and transparent. When an employee expresses concerns over a lack of training or inadequate staffing, those concerns must be addressed.

Veterans Health Administration policies already encourage employees to step forward and raise concerns with clinical care. The Secretary and the Deputy Secretary have strongly emphasized VA's commitment to ensuring the rights and protections

of whistleblowers. VA has of late made great strides in strengthening these protections.

OGC has played an important role in this process by closely coordinating with the U.S. Office of Special Counsel (OSC) to develop mandatory training for all VA managers and supervisors on whistleblower rights and protections. This training encourages supervisors to allow their employees to step forward and disclose wrongdoing. The training also emphasizes that supervisors must take employee disclosures seriously. As General Counsel, I will ensure that OGC continues to strongly support the Secretary's efforts to ensure all employees feel secure in making protected disclosures and that those employees who retaliate against whistleblowers are held accountable.

VETERANS' ACCESS TO LEGAL CARE

Question 3. I understand that if confirmed, your role as General Counsel will primarily focus on legal representation within the VA, particularly with regards to employees and whistleblowers. But our veterans also require legal counsel and representation. The Connecticut Veterans Legal Center, located at the VA Errera Community Care Center in West Haven, provides easy access to free legal assistance to ensure that veterans are equipped to overcome legal barriers to housing, healthcare and income. I am committed to doing everything that we can to help veterans receive appropriate legal counsel.

Ms. Bradley, given your experience and position, do you have any suggestions to improve lack of access to legal representation for our veterans who use VA services?

Response. With the exception of our Grant & Per Diem and Supportive Services for Veterans Families programs, VA has no legal authority to directly fund or provide legal service programs to veterans.

VA is able to provide space at VA facilities to organizations which provide legal services to veterans. In addition to the Connecticut Veterans Legal Center, VA has partnered with 79 other organizations which have established free legal clinics in our medical facilities nationwide. These include law school clinical programs, legal aid organizations, and law firms working pro bono. VA will continue to seek opportunities to work with such organizations and provide veterans greater access to legal representation.

On a related note, VA also supports the 266 Veterans Treatment Courts across the Nation. As you may know, these are courts that have been established by local jurisdictions in which cases involving veterans charged with criminal offenses may be addressed. The idea is to ensure that veterans facing generally minor offenses, especially those that may be related to mental health issues, substance abuse issues, and homelessness have the opportunity to connect with resources and services available from VA. We have 250 Veterans Justice Outreach Specialists (VJOS) at VA who work with these courts and help Veterans get the treatment they need instead of being incarcerated. Every VA medical center has at least one VJO Specialist. All told, VJOS have served nearly 90,000 Veterans since October 2009. Our research shows an 88% reduction in arrests from the year prior to the year after participation in a Veterans Treatment Court.

RESPONSE TO POSTHEARING QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON TO LEIGH A. BRADLEY, NOMINEE TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF VETERANS AFFAIRS

FIRING EMPLOYEES

Question 4. In July 2014, VA announced that you were being detailed from the Department of Defense to serve as special counsel to the Secretary of Veterans Affairs to (quote) "assist [VA] in taking action against those supervisors and employees accused of wrongdoing or serious management negligence."

A. Based on that experience, do you have thoughts on what more could be done to expedite the process of disciplining supervisors or employees when necessary? Do you think it takes too long now?

Response. Secretary McDonald has expressed his firm commitment to holding leaders accountable for misconduct and poor performance. The expedited senior executive removal authority provided by the Veterans Access, Choice, and Accountability Act (Choice Act) furthers this goal. I believe that with the new authority and process contained in the Choice Act, VA has the tools needed to speed up VA's disciplinary process for senior executives. While the new authority has been in effect for only a few months and has not been fully tested, the Department has been able

to rely on it to remove several senior executives in a way that is fair, expedient, and defensible. I do not believe additional enhancements are needed at this time.

B. Do you believe that VA has sufficient legal authorities to quickly terminate managers who fail to live up to VA's expectations? If not, do you have any suggestions on how VA's authorities could be enhanced?

Response. Given the information that is currently available to me, I believe the necessary authorities are in place.

C. In implementing its new authority to fire employees, VA is providing a 5-day period for due process between the time the employee is notified of the proposed termination and when the firing actually happens. But, this may allow the employee time to retire or resign, rather than being terminated. Do you know what actions VA is taking—or could take—to ensure that the employee's personnel record will reflect this decision to resign or retire rather than being fired? How will other agencies know that there were disciplinary reasons for the employee leaving, if they later consider hiring that employee?

Response. Prior to the Choice Act, VA senior executives were entitled to the same due process that applies to most other Federal employees who are proposed for removal or transfer out of the Senior Executive Service. They were entitled to thirty days' advance notice and the right to respond orally and in writing. The Choice Act abbreviated VA senior executives' appeal rights, but did not address pre-termination due process. VA's implementing policy gives senior executives five working days' advance notice and a right to reply in writing before a decision is made to remove or transfer the senior executive. This pre-decisional reply process is intended to ensure that: (1) VA has all the relevant evidence, including the employee's side of the story, before deciding whether to take action and, (2) well-founded termination actions are not overturned on appeal because of due process infirmities.

Any Federal employee who is retirement-eligible can apply for and receive earned retirement benefits even if he or she is removed from Federal service for poor performance or misconduct. In other words, removal from Federal service does not preclude the former employee from drawing earned retirement benefits, provided the Federal employee is retirement eligible (based on age and years of Federal service) and has not engaged in a very limited number of the most serious criminal acts such as treason, espionage, or terrorism. Thus, hypothetically, even if a VA employee were to be summarily fired with no notice, provided he or she is eligible to retire, that employee could still apply for and draw earned retirement benefits. If an employee retires or resigns with a removal action pending, that fact is coded into the paperwork documenting the employee's departure from the agency and becomes part of his or her permanent personnel file.

WHISTLEBLOWER PROTECTIONS

Question 5. It is my understanding that you worked on the issue of whistleblower protections while on detail to VA earlier this year, as well as when you previously served as the VA General Counsel. In fact, you testified back in 1999 about the need to enhance protections for whistleblowers at VA.

A. What lessons did you learn from your experiences dealing with whistleblower protections in the 1990s that could aid VA's efforts now?

Response. My experience in the 1990s taught me that whistleblower disclosures can save lives and money and identify systemic problems within an organization. I learned that having laws and mechanisms in place that are intended to protect whistleblowers is not enough. The organization must embrace a culture that not only protects whistleblowers from unlawful reprisal but also encourages employees to come forward and make disclosures that will lead to improvements and corrections in Department operations and services. I know that the Secretary and Deputy Secretary of Veterans Affairs are committed to fostering a VA culture in which employees feel safe bringing bad news to their boss, and if confirmed, I will not only make whistleblower protection one of my top priorities, but will work closely with VA leadership to ensure that VA's culture encourages employees to identify emerging problems and system deficiencies without fear of management retaliation.

B. At that hearing in 1999, Members of Congress talked about VA tolerating retaliation and the need for the culture at VA to change. More recently, a White House advisor found earlier this year that VA still has "a history of retaliation toward employees raising issues." In your view, why hasn't VA's culture yet embraced the need to encourage and protect whistleblowers?

Response. I believe that culture change must begin at the top and cascade down throughout the organization. Further, in order for culture change to stick, top organization leaders must make concerted efforts to ensure that subordinate managers and supervisors continue to focus on and are held accountable for institutionalizing

the change. Both the Secretary and the Deputy Secretary of Veterans Affairs have strongly reaffirmed VA's commitment to whistleblower rights and protections and stated their intent to make protection of whistleblowers a hallmark of their tenure. They have asked VA employees to recommit in writing to VA's fundamental values and are holding leaders accountable for retaliating against employees who blow the whistle. If confirmed I will ensure the Office of General Counsel continues to take an active role in making sure that VA embraces both the letter and the spirit of whistleblower protection laws and will support the Secretary and Deputy Secretary in their efforts to reform VA's culture and make that change a lasting one.

C. Can you tell us about the recent steps VA has taken to try to ensure that whistleblowers are treated appropriately at all levels of VA? Is there anything different about the current reform efforts that lead you to believe they will take lasting hold?

Response. Both the Secretary and the Deputy Secretary of Veterans Affairs have strongly reaffirmed VA's commitment to whistleblower rights and protections. They have done this by explaining to potential and current whistleblowers that their disclosures are encouraged because they are necessary to VA's efforts to restore public trust and improve the delivery of services to our Nation's veterans. The Secretary and Deputy Secretary have also advised supervisors and managers across the Department that any form of retaliation against those coming forward to make protected disclosures will not be tolerated and that supervisors and managers will be held accountable if they retaliate against their employees. Holding leaders at every level of the organization accountable for the protection of whistleblowers will, I believe, have a significant effect on changing the culture and ensuring that current reforms stick.

D. What additional steps, if any, do you believe are necessary to ensure that whistleblowers feel free to come forward and are not retaliated against in response?

Response. Changing a culture is a process and VA has some way to go to reestablish trust with employees to ensure they feel comfortable in making a disclosure of suspected wrongdoing or system weakness. The tone for the culture of any large organization must be set at the top. As it relates to ensuring whistleblower protections, Secretary McDonald has set that tone from the beginning. He has committed publicly to fostering a Department that lives by its core values of integrity, commitment, advocacy, respect and excellence. An organization that establishes and embraces such fundamental ethical values is likely to produce employees who feel comfortable raising concerns without fear of retaliation for bringing "bad news" to the boss. I believe that Secretary McDonald's clear and persistent focus on spreading this culture throughout the Department is the message we need for success. The recent mandatory training for managers and supervisors on whistleblower rights and protections plays a key role in this path forward. The training helps managers understand ways in which they can make their employees feel more comfortable about blowing the whistle. The training also includes practical examples for managers with insight on the benefits of whistleblower disclosures and the dangers of whistleblower retaliation. During my four-month detail to VA from DOD, I was able to help lead one of these trainings with the VA Medical Center Directors and if confirmed, would be pleased to be a regular part of such trainings in the future.

E. In October 2014, VA announced that it received certification under the Office of Special Counsel's Whistleblower Protection Certification Program, which primarily appears to require that VA disseminate information to employees and supervisors about whistleblower protections. Do you have thoughts on how VA will be able to judge whether these outreach efforts have been effective?

Response. On October 3, 2014, VA was certified by the Office of Special Counsel (OSC) under OSC's 2302(c) Whistleblower Protection Certification Program. In order to become OSC-certified, VA placed informational posters regarding prohibited personnel practices (PPP), whistleblowing, and whistleblower retaliation in public settings at VA facilities and in VA personnel and equal employment opportunity offices; provided and will continue to provide new hires with written materials on PPP, whistleblowing, and whistleblower retaliation; developed a Web site on PPP and whistleblower rights and protections; and developed, in cooperation with the OSC, supervisory training on PPP and whistleblower rights and protections. VA executives, managers, and supervisors must complete this training on a biennial basis. The VA Office of General Counsel (OGC) also developed and presented training to VHA senior leadership on PPP and whistleblower rights and protections. This training supplemented the mandatory Certification Program training. If confirmed, I will work with the appropriate organizations within the Department and consult leaders in the Office of Special Counsel (OSC) to develop mechanisms to evaluate the effectiveness of this training and other Departmental efforts that are designed to raise awareness and change behaviors.

F. It is my understanding that you were involved in VA's efforts to reach a settlement with three whistleblowers in Phoenix. Were there any lessons learned from those efforts that can be applied more universally?

Response. Yes. The Department reached an agreement with the Special Counsel that OGC and OSC would coordinate efforts to expeditiously review credible whistleblower retaliation cases and provide "make-whole" relief to the aggrieved whistleblower. Since that time, OGC has successfully negotiated corrective action for a number of whistleblowers, including three from the Phoenix VA Medical Center. If confirmed, I would ensure that this expedited process is fully leveraged to provide expeditious remedies to those whistleblowers who have suffered retaliation as a result of raising concerns.

VETERANS COURT

Question 6. As you know, one responsibility of the Office of General Counsel is to represent VA before the U.S. Court of Appeals for Veterans Claims. Many believe that the number of incoming appeals the court receives may increase significantly in coming years, as VA increases the number of claims it decides at the regional offices and as VA's Board of Veterans' Appeals increases the number of decisions it is issuing. That would, in turn, increase the workload for the General Counsel's office practicing before the court.

A. Can you commit to us that, if confirmed, you will examine whether the Office of General Counsel is positioned to be able to handle a potential spike in the number of appeals at the Veterans Court in coming years?

Response. I commit that if confirmed, I will closely examine the needs of the Office of General Counsel in meeting this workload. Proper resourcing of this activity is critical to meeting the Secretary's three strategic goals of restoring trust, improving service delivery and setting a path for long term excellence and reform.

B. Will you get back to us with the results of that review?

Response. Yes.

RESPONSE TO POSTHEARING QUESTIONS SUBMITTED BY HON. DEAN HELLER TO LEIGH A. BRADLEY, NOMINEE TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF VETERANS AFFAIRS

Question 8. The claims backlog is one of my top priorities on this Committee because Nevada's veterans continue to have one of the worst waits in the Nation.

The VA's IG released a report this summer that stated that problems at the Reno VARO persisted due to lack of leadership and poor management. As a result, I called for a change in leadership at the Reno VARO and for the director to resign or be fired.

Almost 6 months later, the Reno VARO has an acting director and no certainty from the VA that there will be a new permanent director appointed.

a. Can you shed some light on what could be holding up this process and why the VA has not moved forward?

Response. I am not familiar with the situation at the Reno VARO.

b. Can I get a commitment that you will look at this issue?

Response. If confirmed, I will look into the concerns you have raised, and if it becomes apparent that the Office of General Counsel can, in any way, assist the Veterans Benefits Administration (VBA) in resolving the situation, I will ensure that OGC makes it a priority to do so.

Question 9. a. Since you have been at the VA to assist the Secretary over the past few months, have you had a chance to review the current appeals process? Do you believe the GAO or the VA should conduct a review of the current process to identify inefficiencies?

Response. My responsibilities during my recent detail to VA did not include matters involving the benefits claims process at VBA or the Board of Veterans Appeals—I was assigned to work on senior leader accountability and whistleblower protection. So I did not have the occasion to review the current appeals process, and am not in a position to make an informed recommendation as to whether the GAO or VA should conduct an assessment of the current process to identify inefficiencies. If confirmed, I will explore the scope and findings of recent reviews of this process and assess whether a formal review would be helpful at this time.

b. If confirmed, what could you do as General Counsel to speed up this process so veterans are not waiting years for a decision on their appeal?

Response. In addition to its core role of providing legal advice to program officials and senior VA leaders, the Office of the General Counsel can and should leverage

its experience to generate business ideas designed to expedite and improve service delivery to Veterans. This certainly includes the appeals process. If I am confirmed, I will ensure that OGC attorneys and other professionals see themselves as business partners with their clients and encourage them to focus on risk management and process improvements with their clients. Such collaborative efforts may generate meaningful ideas for shortening the appeals process within existing law and, in some instances, identify a need for changes to law or regulations.

c. Given that more claims are being decided and there will ultimately be more appeals at the Board, do you believe there will need to be an increase in staffing to handle increases in appeals?

Response. I have been informed that all available data indicates that the rate at which claims are appealed has remained constant. Accordingly, the large increase in claims processed by VBA will result in a proportional increase of appeals to the Board of Veterans Appeals. This will likely cause a proportionate increase in the workload of the Federal Courts and the VA Office of the General Counsel in the coming years. If confirmed, one of my top priorities will be to examine closely the needs of the Office of General Counsel in meeting this expanded workload as proper resourcing of this activity is critical to meeting the Secretary's three strategic goals of restoring trust, improving service delivery and setting a path for long term excellence and reform.

Question 10. a. What can be done by the General Counsel to prevent employees from retiring during the 5-day notice period before termination?

Response. It is my understanding that the General Counsel cannot affect an employee's right to resign or, if eligible, retire at any time. Any Federal employee who is retirement-eligible can apply for and receive earned retirement benefits even if he or she is terminated from Federal service for poor performance or misconduct. In other words, termination from Federal service does not preclude the former employee from drawing earned retirement benefits provided the Federal employee is retirement eligible (because of age and years of Federal service) and has not engaged in a very limited number of the most serious criminal acts such as treason, espionage, or terrorism. Thus, hypothetically, even if a VA employee were to be summarily fired with no notice, provided he or she is eligible to retire, that employee could still apply for and draw earned retirement benefits. Please also see my response to Question 1C.

b. Are there specific changes to the process that need action or approval from Congress?

Response. Restricting an employee's right to retire would require a statutory change. However, I do not believe additional enhancements are needed at this time.

Question 11. In 1999, you testified before Congress about how the VA handled whistleblowers. Fifteen years later, whistleblower protections still remain a serious concern at the VA.

What can the General Counsel's Office do to give whistleblowers greater confidence to come forward without fear of being retaliated against?

Response. Please see my detailed response to Question #2 regarding Whistleblower Protections.

[The Committee questionnaire for Presidential nominees follows:]

PART I: ALL OF THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
General Counsel, Department of Veterans Affairs	November 12, 2014

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Leigh	Ann	Bradley	Ms.

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 1600 Defense Pentagon, Room 3E783		
City: Vienna	State: VA	Zip: 22181	City: Washington	State: D.C.	Zip: 20301-1600

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	Check if Middle Name	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

Birth Year and Place	
Year of Birth (Do not include month and day)	Place of Birth
1956	Indianapolis, IN

Marital Status					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

Spouse's Name (current spouse only)			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Douglas	Eugene	Wade	

Spouse's Other Names Used (current spouse only)						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
Douglas	William	Wade	
Daniel	Harold	Wade	
Jacqueline	Kate	Wade	

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
University of Alabama	University	August/1975 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	May/1978 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X <input type="checkbox"/> Present	B.A.	1978
University of Alabama School of Law	Law school	August/1978 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	May/1981 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X <input type="checkbox"/> Present	J.D.	1981
		<input type="checkbox"/> Est <input type="checkbox"/> X	<input type="checkbox"/> Est <input type="checkbox"/> X <input type="checkbox"/> Present		
		<input type="checkbox"/> Est <input type="checkbox"/> X	<input type="checkbox"/> Est <input type="checkbox"/> X <input type="checkbox"/> Present		

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

I have requested a copy of my military records from the U.S. Air Force to verify my duty assignments and dates. Although I have not received those records yet, to the best of my knowledge, the following reflects my assignments while on active duty in the Air Force. Once I receive my records if I discover an error in what I have provided the Committee I will immediately amend my response with the accurate information.

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other federal employment, State Government (Non-federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	Name of Your Employer/Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Private Sector	Phelps, Jenkins, Gibson & Fowler (law firm)	Summer clerk	Tuscaloosa, AL	May 1979 Est X	August 1979 Est X
Federal employment	EPA	Summer intern	District of Columbia	May 1980 Est X	Aug 1980 Est X
State Government	23 rd Judicial Circuit	Law clerk, Presiding Circuit Judge	Huntsville AL	Aug 1981 Est X	Aug 1982 Est X
Active Duty Military	United States Air Force (USAF); Maxwell AFB	Judge Advocate O-2	Montgomery, AL	Sept 1982 Est X	Dec 1982 Est X
Active Duty Military	USAF; March AFB	Assistant Staff Judge Advocate O-3	Riverside CA	Jan 1983 Est X	Nov 1983 Est X
Active Duty Military	USAF; Hurlburt Field; 1 st Special Operations Wing	Assistant Staff Judge Advocate O-3	Ft. Walton Beach, FL	Nov 1983 Est X	Dec 1984 Est X
Active Duty Military	USAF Judiciary (Defense)	Area Defense Counsel O-3	Ft. Walton Beach, FL	Dec 1984 Est X	Dec 1985 Est X
Active Duty Military	USAF Judiciary (Trial)	Circuit Trial Counsel O-3	Denver, CO	Jan 1986 Est X	Nov 1987 Est X

Reserves	United States Air Force	Judge Advocate O-4		Nov 1987	Est X	Sept 1996	Est X
Federal employment	Department of Defense	Senior Attorney	Pentagon D.C.	Nov 1987	Est X	May 1994	Est X
Federal employment	Department of the Navy	Principal Deputy General Counsel	Pentagon D.C.	May 1994	Est X	June 1998	Est X
Federal employment	Department of Veterans Affairs	General Counsel	D.C.	June 1998	Est X	Jan 2001	Est X
Private sector	Holland & Knight LLP	Partner	D.C.	March 2001	Est X	June 2004	Est X
Charitable sector	American Red Cross	Senior Vice President, Enterprise Risk	D.C.	July 2004	Est X	Oct 2007	Est X
Non-profit sector	Noblis	Trustee	Falls Church, VA	Jan 2007	Est X	Feb 2008	Est X
Unemployed				Oct 2007	Est X	Dec 2007	Est X
Federal employment	Department of Defense	Director, Standards of Conduct	Pentagon D.C.	Jan 2008	Est X	Present	

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) "present" box if still serving)
None.		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>

4. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

1. Co-author "Best Brief" at the National Moot Court competition--1981 (brief published in the Alabama Law Review); Most Outstanding Oral Argument, southeast regional National Moot Court competition--1980.
2. Military:
To the best of my knowledge, the following list reflects those awards and decorations I earned while in the Air Force:
 - Achievement Medal;
 - Outstanding Unit citation with V device;
 - Commendation Medal;
 - Meritorious Service Medal
3. Federal employment:
 - Secretary of Defense Medal for Meritorious Civilian Service--1995;
 - Department of Defense Medal for Distinguished Public Service--1998;
 - Department of Veterans Affairs Exceptional Service Award--2000;
 - Meritorious Executive Presidential Rank Award--2012

5. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last ten years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate)	<u>Position(s) Held</u>
Army Navy Country Club	Approx. 1988-Present	Family member
Member of the Bar of the District of Columbia	2000-Present	Member

Special Member of the Bar of the State of Alabama	1982-Present	Member

6. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
No.			

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
None.			

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Barack Obama via Obama for America	\$250.00	July 2011
Barack Obama via Obama for America	\$250.00	April 2011

7. Publications

List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
"A Privatization Alternative: The Department of Veterans Affairs' Enhanced-Use Leasing Program"	<i>Public Contract Law Journal</i>	Summer 2001
"From Challenge to Action: American Red Cross Actions to Improve and Enhance Its Disaster Response Capabilities"	American Red Cross (www.redcross.org)	June 2006
Best Brief at National Moot Court Competition	<i>Alabama Law Review</i>	Spring 1981

8. Public Statements

(A) List any testimony, official statements or other communications relating to matters of public policy that you have issued or provided or that others presented on your behalf to public bodies or officials.

Testimony: March 11, 1999 before the House Committee on Veterans Affairs (Subcommittee on Oversight and Investigations); Hearing on “Whistleblowing and Retaliation in the Department of Veterans Affairs.”

Testimony: July 12, 2006 before the House Committee on Homeland Security (Subcommittee on Management, Integration, and Oversight) on fraud related to 9/11 assistance that was provided by the American Red Cross.

Letter on the Stop Trading on Congressional Knowledge Act (“STOCK Act”): I signed a letter to Senator Joseph Lieberman, dated August 2, 2012, on behalf of my supervisor, then DoD General Counsel Jeh Charles Johnson, regarding the unintended consequences of the STOCK Act’s requirement to post on an internet site all OGE Form 278s filed by flag and general officers and senior DoD civilians. This letter was sent in response to Senator Lieberman’s request for DoD’s views on this issue.

(B) List any speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the dates and places where such speeches or talks were given.

Panelist at Defense Industry Initiative conferences as follows: At its “Best Practices Symposium” at the JW Marriott, DC (June 27, 2008); at its “Best Practices Symposium” at the JW Marriott, DC (June 19, 2009); at its “Best Practices Symposium” at the Marriott Marquis, DC (June 6, 2014). The Defense Industry Initiative is a non-profit organization of 77 signatory companies (Defense contractors) that are committed to a culture and practice of ethics and integrity in all business dealings with the Department of Defense.

Presenter at the annual “DoD Ethics Counselor Course” in Charlottesville, VA Judge Advocate General’s School; April 2008; April 2009; April 2012; November 2013.

Panelist at event hosted by the Senior Executives Association at its offices in Washington, D.C. (Dec 6, 2013). Topic was ethical leadership in the Federal Government.

Guest Lecturer at Air Force JAG School Gateway class (Jan 2011). Topic was how to manage an effective ethics program geared towards middle-senior level staff judge advocates.

Panelist at Defense Intelligence Agency leadership development event entitled, “Understanding the Role of Coaching, Mentoring, and Sponsorship in the Professional Development of DIA Employees.” (August 28, 2013).

(C) List all interviews you have given to newspapers, magazines or other publications, and radio or television stations (including the dates of such interviews).

None that I am aware of; from time to time, however, as part of my official responsibilities at the Department of Defense, the DoD Office of Public Affairs will ask me to speak to a reporter “on background.”

9. Agreements or Arrangements

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)
--

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

10. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

Although I have not acted as a registered lobbyist in over a decade, I have been informed that Holland & Knight LLP, my employer from March 2001-June 2004, did not remove my name as a registered lobbyist from its filings regarding the firm's lobbying activity for clients until 2008. After I left Holland & Knight in June 2004, I did not work in any capacity for or with the firm and did not make any lobbying contacts on its behalf.

11. Testifying Before the Congress

(A) Do you agree to appear and testify before any duly constituted committee of the Congress upon the request of such Committee? Yes.

(B) Do you agree to provide such information as is requested by such a committee? Yes.

[Letter from the Office of Government Ethics follows:]



United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

NOV 20 2014

The Honorable Bernard Sanders
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Leigh A. Bradley, who has been nominated by President Obama for the position of General Counsel, Department of Veterans Affairs.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in blue ink, appearing to read "David J. Apol".

David J. Apol
General Counsel

Enclosures

[Letter from the nominee to the Office of General Counsel, U.S. Department of Veterans Affairs follows:]

November 3, 2014

Ms. Renée L. Szybala (023)
Assistant General Counsel and
Designated Agency Ethics Official
U.S. Department of Veterans Affairs
Washington, D.C. 20420

Dear Ms. Szybala:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of General Counsel of the U.S. Department of Veterans Affairs.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Within 90 days of my confirmation, I will divest my interest in Health Care REIT (HCN). I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of Health Care REIT (HCN) until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that I may be eligible to request a Certificate of Divestiture for this asset and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will divest my interest in Health Care REIT (HCN) within 90 days of my confirmation and will invest the proceeds in non-conflicting assets.

I have been advised that the duties of the position of General Counsel may involve particular matters affecting the financial interests of Bank of America. The Department has determined that it is not necessary for me at this time to divest my interest in Bank of America because the likelihood that my duties will involve any such matter is remote. Accordingly, I will not participate personally and substantially in any particular matter that to my knowledge will have a direct and predictable effect on the financial interests of Bank of America for as long as I own it, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

2.

Ms. Renée L. Szybala (023)

My spouse is a principal in Northern Virginia Title & Escrow. Accordingly, I will not participate personally and substantially in any particular matter that to my knowledge will have a direct and predictable effect on the financial interests of NVT&E unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I also will not participate personally and substantially in any particular matter involving specific parties in which I know a client of my spouse is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with other ethics agreements of Presidential nominees who file public financial disclosure reports.

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

Sincerely,



Chairman SANDERS. Well, it certainly will be entered into the record, and we thank you very much for your statement.

You and I chatted yesterday and you answered my questions. I am strongly supportive of the nomination.

Mr. Isakson.

**OPENING STATEMENT OF HON. JOHNNY ISAKSON,
U.S. SENATOR FROM GEORGIA**

Senator ISAKSON. Thank you, Chairman Sanders.

I, too, met yesterday with Ms. Bradley. We had a wonderful meeting, and I want the record to reflect that this is one Georgia Bulldog who is going to pull for an Alabama "Roll Tide" Crimson Tide lady in the bowl game coming up pretty soon. Good luck this weekend.

Ms. BRADLEY. Thank you.

Senator ISAKSON. Mr. Chairman, I told Leigh that this is probably the most important appointment in the VA other than the Secretary himself, and the implementation of the Veterans Choice Act is going to require an awful lot of work through legal counsel to support the Secretary in whatever disciplinary action he takes as well as expedite the review process of cases that are appealed, because we are getting more and more disability determinations coming out faster and faster, which means we are going to have a higher and higher volume of appeals, which means legal counsel is going to be under the gun. We want to be supportive of you. We

want to streamline that process as much as possible and make sure it works.

We have a 2-year window of opportunity to make the VA the best VA in the world and we want to make that happen and you are a key part of that. I am very supportive of your nomination and appreciate your willingness to accept the job. And, I really have no questions, Mr. Chairman.

Chairman SANDERS. Thank you very much, Senator Isakson.

Ms. Bradley, thank you very much for your willingness to serve. As Senator Isakson indicated, your position is enormously important. There is a transition in the VA right now, and I am confident you are going to do a great job for us.

With that, if there are no other comments—Johnny, are you OK?

Senator ISAKSON. Just proud to have her on board.

Chairman SANDERS. OK.

Ms. BRADLEY. Thank you both.

Chairman SANDERS. This hearing is adjourned.

[Whereupon, at 10:10 a.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. DEAN HELLER,
U.S. SENATOR FROM NEVADA

Thank you Chairman Sanders. I want to begin by welcoming Ms. Bradley. It is a great honor to serve Veterans, and I look forward to hearing about what you plan to bring to the VA.

It is no secret that the VA has not been working well for veterans, and Secretary McDonald is trying to reform this agency. And every office has a part to play, including the General Counsel.

I will tell you, Ms. Bradley, what I have told every VA nominee I've met with—My priority is representing Nevada's veterans and what is important to them.

That is why every time you come before this Committee, I will be asking about what you are doing in your position to help reduce the claims backlog, improve VA health care, and anything else that will benefit our Nation's veterans.

The claims backlog is especially important since Nevada has one of the worst VA Regional Offices in the Nation and the highest percentage of backlogged claims.

I know the General Counsel's office has a role in this process at the appeals level and accrediting veterans service organizations.

I am also interested in the VA's handling of whistleblowers and what your role in that process might be.

I want to make sure that, moving forward, every employee working at a VA facility in Nevada feels comfortable with reporting problems they see without fearing retaliation.

As a Member of this Committee, I take this oversight seriously and want to be assured that you are up for the task.

Again, thank you for being here and I look forward to addressing these issues further in my questioning.

