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November 10, 2016

The Honorable Michael J. Missal
Inspector General
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Inspector General Missal,

I am writing to follow up on the July 22, 2016 responses you provided to Questions for the Record following the May 31, 2016 Homeland Security and Governmental Affairs Committee field hearing in Tomah, Wisconsin.

First, in one of your responses to a question posed by my colleague, Senator Baldwin, you stated: "I am in the process of reviewing current OIG policies, workloads, and priorities with respect to our Hotline and will make any enhancements as appropriate." You have now been in office approximately six months, and I would appreciate an overview of any "enhancements" or other policy changes you have made pursuant to your review.

In addition, I would like to take the opportunity to raise a number of specific questions about your responses. Also in response to a question from Senator Baldwin, you stated that "[b]ecause the number of allegations we receive each year far exceeds the number we can accept for review, the OIG must be highly selective in the cases we accept." That appears to be reflected in the FY 2015 Hotline data you provided in response to one of my questions. You indicated that 38,098 contacts were made to the OIG Hotline during FY 2015. My understanding of your explanation as to how those contacts were addressed is as follows:

- 1,764 – external referral to VA
- 497 – non-case referrals to VA
- 1,000 – lack of consent, so no further action
- 33,000 – no further action for various reasons (i.e., outside OIG jurisdiction)

Collectively, these numbers add up to 36,261, which is 1,837 short of the 38,098 contacts you indicated were made in FY 2015. In your response, you also indicated that the OIG's Office of Investigations, Office of Audits and Evaluations, and Office of Healthcare Inspections collectively opened 225 cases as a result of Hotline contacts. Do these cases account entirely for the 1,837 remaining Hotline contacts?

Also with respect to the total number of contacts made to the OIG Hotline in FY 2015, does the OIG collect demographic data on who made the contact – i.e., whether the contact was made by a VA employee, veteran (who is not a VA employee), or someone else? If so, please share those metrics. If not, why not? Could the VA OIG reasonably begin collecting that information?

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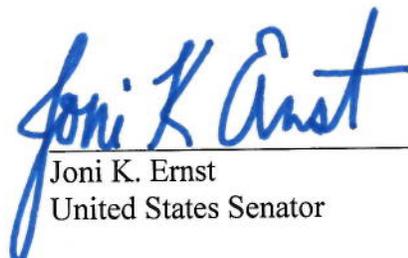
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In addition to providing me with a clear accounting of the FY 2015 contacts to the VA OIG hotline, please respond to the following questions about the OIG's external case referrals to the VA:

1. In your response to a question from Senator Baldwin, you stated "When we close an external referral that originated through the Hotline, we contact the complainant in writing to advise them how to request the results through a *Freedom of Information Act* (FOIA) request." According to the VA's website, it aims to acknowledge a FOIA request within 20 working days of receipt, though the custodian of any responsive records may not be prepared to respond to a request at that time if he or she has a backlog.¹ Why must the complainant go through what may turn out to be a lengthy FOIA process, as opposed to receiving appropriate information about the VA's review directly from the OIG? If the OIG accepts a case itself, does it directly provide a complainant with appropriate information upon the case's closure?
2. According to VA Directive 0701, *Office of Inspector General Hotline Complaint Referrals* – which you cited in your responses – "[t]he OIG protects the identity of complainants and will not disclose the complainant's identity outside the OIG without consent, unless the Inspector General or designee determines that the release of the complainant's identity is unavoidable during the course of an investigation. Unless this exception applies, the OIG will not divulge the source of the complaints without a written consent to release identity signed by the individual." Particularly with respect to external referrals to the VA, why is this "exception" ever necessary? Put simply, why can't the OIG's office in every case procure written consent to release identity if there are concerns that the release of the complainant's identity may be unavoidable during the course of an investigation?
3. Of the external case referrals to the VA in FY 2015, how many resulted in the VA substantiating allegations? Of those where allegations were substantiated, how often did the VA take corrective action?
4. Finally, if the OIG had more resources and/or a reduced workload, would the OIG conceivably accept some of the cases that it is currently referring to the VA?

Thank you for your time and attention to these questions. I would appreciate a response no later than December 10, 2016.

Sincerely,



Joni K. Ernst
United States Senator

¹ U.S. Department of Veterans Affairs, FOIA FAQs, http://www.oprm.va.gov/foia/faqs_foia.aspx (last visited Nov. 10, 2016).