

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
COMMERCE, SCIENCE, AND
TRANSPORTATION
FOREIGN RELATIONS
SELECT COMMITTEE ON INTELLIGENCE
SMALL BUSINESS AND
ENTREPRENEURSHIP

September 16, 2015

The Honorable Linda A. Halliday
Deputy Inspector General
U.S. Department of Veterans Affairs
Office of the Inspector General (50)
810 Vermont Avenue Northwest
Washington, DC 20420

Dear Deputy Inspector General Halliday:

August 7, 2015, marked the one year anniversary of the Veterans Access, Choice, and Accountability of 2014's (Public Law 113-146) ("Choice Act") signage into law. Since the Act's implementation in November 2014, we continue to hear about veterans waiting for health care appointments within the VA and as a result of the Choice Program, and claims and appeals backlogs that delay benefits' decisions. In my home state of Florida, home to over 1.5 million veterans, the accountability of the Choice Act remains unclear.

The Choice Act progress reports, released on November 3, 2014, and March 24, 2015, by the VA Office of Public Affairs, have failed to provide any information of progress related to Section 707 of the Choice Act. For reference, Section 707 adds a new section 713 to title 38, United States Code to make significant changes to existing law addressing the ability of the Department of Veterans Affairs to either remove or transfer senior executive service (SES) employees and "SES-equivalent" employees within the VA. In pertinent part, the section provides:

"The Secretary may remove an individual employed in a senior executive position at the Department of Veterans Affairs from the senior executive position if the Secretary determines the performance or misconduct of the individual warrants removal. If the Secretary so removes such an individual, the Secretary may: A) remove the individual from the civil service (as defined in section 2102 of title 5); or B) ... transfer the individual from the senior executive position to a General Schedule position at any grade of the General Schedule for which the individual is qualified and that the Secretary determines is appropriate."

Despite this additional authority, the facts surrounding senior employee disciplinary action has remained unclear. In a February interview with Meet the Press, the VA Secretary claimed 900 firings have taken place since he took over; 60 of which were related to wait times. This claim has been called into question by several media sources, including in an April 22, 2015, *New York Times* article claiming within it, "New internal documents show that the real number of people removed from their jobs is much smaller still: at most, three." More recently, in an August 6, 2015 interview with *Politico*, the VA Secretary claimed that over 1400 people have been terminated since his becoming Secretary. In a July 22, 2015 VA Accountability fact sheet, it is stated that Section 707 authority has been used "...to propose removal of six Senior Executives. Four of those Senior Executives have been removed from Federal service and two have retired." yet provides no description of facts or circumstances surrounding each investigation or disciplinary action.

Given these uncertainties, please send me a report no later than October 5, 2015 addressing the following. Since the passage of the Choice Act, August 7, 2014:

- i. How many VA SES officials or General Schedule employees in the State of Florida have faced disciplinary action, including removal or probationary termination, due to reports of excessive waits for VA healthcare appointments and continued delays in decisions on VA disability compensation claims and appeals? Please elaborate with facts, disciplinary action, and status of continued employment with the VA.
- ii. Same as above (i.) except at the National level.

The VA has an obligation to the men and women in uniform who so courageously serve our nation. Our veterans deserve the very best for the sacrifices they have made for our country. I intend to do my part to ensure they receive health care and benefits they have earned.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MR', with a long horizontal line extending to the right.

Marco Rubio
United States Senator