

**Statement of
Jan R. Frye
Deputy Assistant Secretary for Acquisition & Logistics
Department of Veterans Affairs
Before the
Subcommittee on Oversight and Investigations
House Committee on Veterans Affairs
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Chairman Coffman, Ranking Member Kuster, and Members of the Subcommittee, thank you for inviting me to testify today.

In a June 11, 2015 letter to VA Secretary McDonald, you invited me to testify as a witness on behalf of VA, along with my colleagues Messrs. Leney and Doyle. I was intentionally excluded by the VA leadership, and do not appear before you today as a VA witness. I appear today of my own volition, as a VA whistleblower, representing American taxpayers and America's military veterans.

As you know, I alleged massive violations of acquisition and fiscal laws to Secretary McDonald in March 2015. As you are also aware, I received no response from him regarding my disclosures. Thus, I was compelled to report them to this Congressional body. In the first of now three joint hearings, beginning May 2015, I reported that some VA senior leaders have willfully violated the public trust, debasing Federal procurement and financial laws.

A reasonable person might conclude my disclosure of illegal acts would be accepted with open arms by VA's leadership for further investigation. That has not been the case. My intentional removal as a VA witness for this hearing is irrefutable proof of continuing scorn for those who attempt to uphold the public trust. Further, these VA leadership actions serve to cast a chill upon future potential whistle blowers.

We have a senior-leader integrity malaise in VA. Like substance abusers before the journey to recovery, we will not be cured until we admit we have a disease. During the June 1 hearing on these matters, you heard one of VA's chief law enforcers testify emphatically, that violating U.S. Federal statutes and regulations is not "illegal" but just "improper." In my opinion, parsing words in this manner is a stark reflection of our denial, and exemplifies just how low some VA senior leaders will stoop to avoid culpability and protect themselves. As Government servants, we did not take an oath to serve ourselves.

Massive violations of public trust continue unabated. In the past several weeks, it was disclosed that VHA officials committed approximately 2000 illegal transactions for kidney dialysis from October 2014 to May 2015. This represents 34 percent of the transactions under these multiple-award contracts. These are unauthorized

commitments that require ratification before payment. However, payments have already been made, in violation of Federal fiscal law.

This month, the VA Office of Inspector General reported theft of approximately \$225,000 by a VHA, West Roxbury, NY employee, using a government purchase card. This theft was avoidable, and occurred because required internal controls in VHA and the Department are lacking. These funds will never be returned to VA to take care of veterans. Over a year ago, I personally authored a new policy that would vastly improve internal controls in use of purchase cards for contract payment. VHA rejected the policy. It was apparently “inconvenient” for them to execute.

In this hearing we will discuss VA’s failure to accurately report our small-business goal accomplishment. We are guilty. In doing so, we have deceived the veteran owned small-business community, while violating federal laws. I have previously alleged that billions of dollars, extended over multiple years, have not been placed under contract as required, and thus have not been reported in the Federal Procurement Data System as our VA total-spend denominator for contracting.

Today, I am providing this subcommittee information concerning one of the most deceptive schemes I have uncovered in my 41 years of government service. Each year VHA purchases over \$1B in medical/surgical products. All of these products must be procured in accordance with Federal contracting laws. Departmental policy requires most be obtained through our medical/surgical prime vendors, who serve as distributors, using Federal Supply Schedules (FSS) as underlying contracts. I first learned we had hatched a scheme that avoids use of FSS in late 2014. We pretend to use them; we have never informed OMB or the public we are not using them; but in fact, we are not. Using a convoluted ruse, we buy products off a “shopping list” while throwing Federal acquisition laws to the wind.

We are illicitly and deceptively pretending that Federal Supply Schedules are being used while executing open-market purchases. Federal Supply Schedules do not require small business set-asides. Open-market purchases do require set-aside consideration. Our illegal behavior allows us to avoid set asides, intentionally fencing these purchases from small businesses. In these acts, exceeding \$1B annually, we are in violation of Federal procurement law, as well as the Small Business and the Veterans First Acts.

After learning of these shocking practices in late 2014, I attempted to rally VHA senior leaders, as well as my supervisor, to systematically cease these unlawful deeds. I have been totally thwarted in my efforts to get VHA to properly place their products on contract.

We weave a tangled web. In previous hearings I have outlined VA’s failure to award billions of dollars for products and services via contracts, which is illegal and affords potential harm to veterans. These failures led to massive understatements of our

annual total spend for multiple years in Federal Procurement Data System. In a domino effect, this resulted in overstatement of Departmental small-business goal accomplishments. And finally, as revealed today, we further duped the American public and the veteran-owned small-business community with deception using Federal Supply Schedules. It is my opinion these acts combined and separately constitute corruption and gross mismanagement.

I conclude with this rhetorical question, which I posed to Secretary McDonald in my March report to him: Without demonstration of responsible stewardship, why would the American public support ever-increasing and generous annual Congressional appropriations, to care for our nations veterans?

Mr. Chairman, this concludes my statement, and I am prepared to answer any questions this Committee may have.