

MSPB NOMINATION HEARING TESTIMONY

TRISTAN L. LEAVITT
MEMBER

U.S. MERIT SYSTEMS PROTECTION BOARD

SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SEPTEMBER 22, 2021

Chairman Peters, Ranking Member Portman, and members of the Committee,

Thank you for the opportunity to appear before you today.

I'm grateful to the President for the honor and privilege of this nomination, and to Leader Mitch McConnell for his recommendation to the President. I also want to express my gratitude and respect for the dedicated career professionals at the Merit Systems Protection Board and the Office of Special Counsel, who I've had the privilege of serving alongside the past four years. I would not have had those opportunities were it not for bosses who gave me a chance, including Senator Chuck Grassley, Chairman Jason Chaffetz, Special Counsel Henry Kerner, and former MSPB Vice Chair Mark Robbins. Their support for me being nominated, as well as the support of many former Capitol Hill colleagues on both sides of the aisle and of advocates I've worked with in the Title 5 community, has been incredibly humbling. I'm thankful for each of these relationships from my career.

Finally, I want to express my eternal gratitude to my wife, Brittany, without whose support for me and selfless sacrifice for our five children none of these opportunities would have been possible. She could just as easily have gone to law school, but instead raised our two children while I went to law school. She then delivered our third child one month after I graduated, when I was already working full-time on the Hill and preparing to take the bar exam in one more month. Given all of that, my J.D. by all rights ought to be a joint degree with her. She has the hardest work ethic of anyone I know, and her organization and tireless dedication provide the center of gravity in our home.

With an estimated 9 million servicemembers, civil servants, contractors, postal workers and more, the federal government is the largest employer in the United States. Furthermore, its approximately 2.1 million workforce of career civilian employees is tasked with enormous responsibility. As we've seen during this global pandemic, the stakes are high. We owe it to ourselves as a country to draw on the most qualified employees who will serve the taxpayers most effectively. This is why the merit system, first embraced by our government nearly 140 years ago, remains so imperative today.

Having grown up as the oldest of seven children in a family on a tight budget and spent my teenage summers doing drywall with my father, I believe firmly in the principles of responsibility, hard work, and accountability. I recognize that our government is funded by tax dollars earned by hard-working Americans, including single parents, small business owners like

my dad, and more. I take extremely seriously the responsibility we all have to exercise careful stewardship over those resources. To me, the merit system is a critical component of that kind of careful stewardship; it ensures the American public gets the “best bang for their buck.” A good portion of my career was spent investigating misconduct in the federal government, including by line-level employees, by managers, and even by senior leaders. Holding such employees accountable is key to upholding the morale of the rest of the federal workforce.

Anyone who knows me might perhaps know me best for being passionate about the importance of protecting whistleblowers. Since first working with Special Agent John Dodson, who felt compelled by the death of Border Patrol Agent Brian Terry to blow the whistle on gunwalking by the Bureau of Alcohol, Tobacco, Firearms and Explosives, I’ve worked with hundreds of patriotic women and men who saw problems in the federal government and spoke up about them. Their concerns have run the gamut from cost overruns in federal agencies to widespread employee misconduct to security vulnerabilities at the White House. To me, protecting whistleblowers is without question the best way to root out waste, fraud, and abuse in the federal government, or identify other problems that pose a risk to the health and safety of the American public. Given the prospective risks faced by anyone considering speaking out, I consider whistleblowing an act of conscience. I have the utmost respect for those whose personal convictions impel them to courageously stand up for the truth. I believe we owe it to them to do all we can to ensure they receive the benefit of the laws intended to protect them.

Even if the federal government wasn’t the largest employer in the country, it’s one we all have a stake in. Our country was founded on national ideals—principles that our nation aspires to abide by. In light of those ideals, I believe the federal government should also strive to be a model employer, doing our best to treat federal employees fairly and holding federal managers to a high standard. The vast majority of federal workers demonstrate great commitment and dedication, and I’m grateful for the public service they render.

If confirmed to the Merit Systems Protection Board, I commit that I will do everything within my power to work hard and to exercise fairness in applying the law to federal employee appeals, recognizing in turn that all of us are serving the American taxpayer. Thank you so much for the opportunity to appear before you today and to answer questions you may have.