

MSPB NOMINATION HEARING TESTIMONY

DENNIS DEAN KIRK
MEMBER AND CHAIRMAN
U.S. MERIT SYSTEMS PROTECTION BOARD

SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS
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Chairman Lankford, Ranking Member Heitkamp and Members of the Committee:

Thank you for this opportunity to appear before you on my hearing for confirmation to serve as a Member and the Chairman of the Merit Systems Protection Board (MSPB). I'd like to introduce my family: my son, Dean (now in his final year in law school at my alma mater, Washburn University of Topeka, Kansas), and my brother, Colonel Donald R. Kirk, U.S. Army (Ret.), who spent over 32 years in service to our country. My Intern, Oriet Hemenway, is here observing how our government works.

My thanks to the Honorable Tom Davis, my friend of over three decades, for his supporting statement he submitted to the Committee, and ask its admission into the record. Tom appointed me to the Fairfax County (VA) Consumer Protection Commission, where I am now on my 36th year of service.

The MSPB protects 2.2 million federal employees by conducting fair and neutral case adjudications, regulatory reviews, and independent government studies to improve the workforce. MSPB, in conjunction with the Office of Personnel Management and Office of Special Counsel, protects merit system principles and prevents Prohibited Personnel Practices. The Constitution, U.S. Code, Code of Federal Regulations, and precedents in Courts and the MSPB, all guide the Board in reaching decisions on original, appellate, and specialized jurisdiction areas.

MSPB has a backlog of about 1,250 cases awaiting decision because no voting board quorum exists. If nominees are confirmed, it initiates the process towards delivering fair and equitable justice to waiting federal employees. Employees reporting violations of law, rules and regulations, waste, fraud, abuse, mismanagement, and specific substantial dangers to public safety will receive the Board's full help, such as protecting whistleblowers against retaliation and retribution.

If confirmed, in collegial collaboration with my other Board members and MSPB staff advisors, I pledge to ensure the Board will deliver government-wide studies to advise and protect the merit system by analyzing the health of the workforce, offer best practices, seek modernization of the

workforce, enforce fair treatment and safety for whistleblowers, and insure a workplace free from Prohibited Personnel Practices.

As a proven strategic innovator, if confirmed I will develop creative, rapidly effective solutions to complex problems. For example, I will recruit, hire, train, educate, and deploy into public service at MSPB the very best qualified diverse pool of federal workers. This will assure fair pay with excellent treatment for all employees, so they can exhibit the highest standards of integrity while conducting public service.

The Secretary of the Army created a new position in Army OGC. I was its first Associate General Counsel for Strategic Innovation and Business Transformation. My responsibilities were to create, design and lead major business modernization. I developed efficient, economical improvements in civilian/military operational and personnel systems. This saved millions of dollars for taxpayers. Such incredibly difficult challenges could not have been accomplished without the support of our Army team of excellent public servants.

It is a great honor and privilege to again hear the call to serve the United States especially in such a challenging and noble function. I am happy to take any questions, and answer within my best abilities and present level of knowledge about the MSPB.