



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

February 12, 2009

Mr. William E. Reukauf
Acting Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW
Suite 218
Washington, DC 20036-4505

Dear Mr. Reukauf:

This is in response to your letter dated November 3, 2008, regarding allegations reported by employees on the use of annual leave at the Department of Veterans Affairs Canteen Service (VCS) at the VA Medical Center (VAMC) in Cincinnati, Ohio (OSC File No. DI-08 2238). The enclosed Internal Inquiry Report contains the findings of an internal investigation conducted by Joseph R. Tober, Chief Operating Officer, VCS.

As a result of the investigation, VCS has taken action to resolve the internal management issues pertaining to employee time and attendance reporting, application of employee annual leave procedures, and VCS retail store operations at the Cincinnati VAMC. Interim unannounced reviews will be made to ensure there is no retribution or adverse actions taken on the employees involved.

I have reviewed the report and concur with the findings, conclusions and affirmative actions taken on behalf of the VCS and the affected employees. Thank you for the opportunity to respond to these issues.

Sincerely,

A handwritten signature in black ink, which appears to read "Eric K. Shinseki".

Eric K. Shinseki

Enclosure



DEPARTMENT OF VETERANS AFFAIRS
Veterans Canteen Service
Central Office
St Louis MO 63125

In reply refer to: VCSCO-COO

Michael J. Kussman MD, MS, MACP
Under Secretary for Health
810 Vermont Avenue, NW
Washington, DC 20420

INTERNAL INQUIRY REPORT: OSC File No. DI-08-2238

1. **Purpose:** This report outlines the findings of an internal investigation involving the Department of Veterans Affairs (VA) Veterans Canteen Service (VCS) management practices at the VCS operation located at the VA Medical Center (VAMC), Cincinnati, Ohio. Specifically, the inquiry focused on VCS' internal management practices pertaining to employee time and attendance reporting, application of employee annual leave procedures, and VCS retail store operations.
2. **Background:** On November 3, 2008, VCS Central Office (VCSCO) received notification, via the VA Central Office, from the Office of Special Counsel, Washington D.C., regarding a Whistleblower disclosure complaint submitted by Ms. Monica Roy, a former employee of the VCS, Cincinnati, Ohio. Specifically, Ms. Roy alleged that VCS employees were forced to take AL on Friday afternoons to allow the canteen manager, Mr. Gary Slucher, to close the retail store and leave the VAMC early.
3. **Method of Review:** Information attained for this report was obtained from the following sources:
 - a. Unannounced, on-site inspection of the canteen's operations was conducted on Friday, November 7, 2008.
 - b. An analysis of Time and Attendance (T&A) reports of employees assigned to the VCS from the period January 2004 to November 7, 2008.
 - c. Direct interviews were conducted with Mr. Slucher, Ms. Emily Sexton, Assistant Chief, Mr. Hank Gieseler, former Assistant Chief (now employed with the VAMC), and former VCS employees Bobbie Garcia and Ms. Desiree James. Garcia and James are now employed by the VAMC.

- d. Initial briefings were conducted with the Medical Center Director (MCD), Ms. Linda Smith, Assistant Director (ASD), Mr. David Ninneman, and the Chief Fiscal Officer, Ms. Sandy Selvidge.
- e. The investigation also included a review of OPM/VA regulations governing employee leave procedures, VA Time and Attendance procedures, and VCS operating policies regarding leave and compensatory time-off procedures.

4. Findings:

- a. Time and Attendance reports provided by Selvidge show a pattern of annual leave recorded from 25 to 45 minutes on Friday afternoons. The pattern involved employees assigned to the retail store. There were no similar patterns identified for employees assigned to the food operations element.
- b. Thirty-seven VCS employee T&A reports were reviewed. Only thirteen reports involved employees assigned to the retail store. Of the thirteen, only seven remain employed with VCS or VA.
- c. The retail store closed on Friday afternoon at 3:00 p.m. Friday's operation times do reflect a 3:00 p.m. closing time. Monday through Thursday operations reflect a 3:45 p.m. closing time.
- d. Ninneman confirmed that the retail store had closed early on Friday afternoons for at least the last fifteen years. Slucher, as well, acknowledged that this practice was in existence upon his arrival in December of 2002.
- e. Slucher's official tour of duty is listed at 6:30 a.m. to 3:00 p.m., Monday through Friday. Slucher acknowledged leaving early on Friday afternoons, departing the canteen between 2:45 and 3:30 p.m. This was a frequent practice.
- f. Interviews with VCS staff and Ninneman revealed that Slucher routinely begins his tour between 5 and 5:30 a.m. daily, departing the canteen between 4:00 and 4:30 p.m., Monday through Thursday. His early departures on Fridays were used to make the up the time for his early reporting.
- g. Assistant managers Sexton or Gieseler were in charge of the retail store when Slucher departed on Friday afternoons. They determined if early dismissals would be allowed, as their decisions were based on operating requirements after the store closed. In most cases, the T&A records

suggest that employees were allowed to leave early. Slucher was aware of this practice.

- h. The tour of duty for affected employees was 7:30 a.m. to 4:00 p.m., Monday through Friday. Employees interviewed acknowledged that being allowed to leave early was a standard practice afforded on Friday afternoons. Not one employee indicated, however, that Slucher forced anyone to take annual leave.
- i. Despite VCS management's assertion to the contrary, there is no indication that employees affected by the early release practice were given the option to complete their tour of duty or to take AL.
- j. Slucher relied on his assistant managers, Sexton and Gieseler, to manage store activities and to render AL decisions for employees on Friday afternoons. Also, Sexton acknowledged that she placed employees on AL if they decided to leave early without securing permission. Gieseler too acknowledged the practice of placing staff on AL, but firmly believed that the staff was aware that they would be charged AL for leaving early.
- k. On at least two occasions, Ms. James challenged the early release practice directly to Sexton. James stated that she preferred to work her complete schedule and did not like using her AL. Unlike other employees, James preferred to accrue AL, of which she had very little. Sexton acknowledged James' grievance but never informed Slucher.
- l. Subsequent to James request, Sexton temporarily terminated the early release practice. Because of complaints from other employees who preferred the practice and had accrued ample AL, she allowed the early dismissal practice to resume.
- m. As the leave approving official, Slucher approved T&A submissions as submitted by Sexton, Gieseler, or the office clerk, Ms. Monica Roy. He stated he never questioned submissions as he assumed that the affected employees had agreed to take AL.

5. Conclusions:

- a. VCS management violated OPM/VA governing regulations involving the administration of scheduled leave. Affected employees were not afforded the option of completing their tour of duty or requesting AL.
- b. To accommodate the early closures on Friday afternoons, VCS management should have modified employees' tour of duty. This would

have eliminated any need for early dismissal and subsequent AL decisions.

- c. VCS management failed to respond and to take corrective and sustained action regarding the complaint articulated by James. Furthermore, Sexton failed to inform Slucher of James' concerns to give him the opportunity to respond or take corrective action.
- d. Slucher's practice of leaving early on Friday afternoons was not an attempt to defraud VCS/VA. It is well known that he works beyond his normal tour of duty. That said, VCS policies allow managers to request and properly record compensatory time-off for extra hours worked. He did not comply with this policy. This notwithstanding, however, his actions demonstrate a good work ethic on his part, as well as his commitment and dedication to his job.
- e. Mr. Slucher is a seasoned canteen manager with over twenty-one years of Federal service. He should have known to change employee work schedules to correspond with their correct tour of duty.
- f. Though Sexton and Gieseler are of the opinion that affected employees were aware and agreed to accept AL for leaving early, they both failed to follow and/or ensure leave requesting procedures were executed. Additionally, once Sexton was confronted by James, Sexton should have informed Slucher and she should have never reverted back to the early dismissal practice.
- g. Given the findings attained for this report, there was no need to interview Roy, the complainant. Other than her assertion that she was forced to take AL, her description of the events surrounding VCS management practices were easily validated.

6. VCS Actions:

- a. All Annual Leave taken as mandated by management for affected employees will be restored.
- b. As of November 7, 2008, the canteen's retail operating hours have been changed to reflect a 3:45 p.m. closing time. Tours of duty for employees assigned to the store have been changed allowing for departure at 4:00 p.m. daily. No longer are employees allowed to leave the store early without first requesting and securing approval for AL or other leave entitlements.
- c. Disciplinary action including a Letter of Reprimand and a 3-5 day suspension will be proposed for Slucher and Sexton.

- d. All employees and managers will receive re-training on the proper procedures for requesting and securing leave, as well as time and attendance reporting procedures.

/s/

Joseph R. Tober
Chief Operating Officer
Veterans Canteen Service