



U.S. OFFICE OF SPECIAL COUNSEL
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The Special Counsel

May 30, 2024

The Honorable Denis R. McDonough
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Re: OSC File No. DI-24-000869
Referral for Investigation—5 U.S.C. § 1213(c), Part I

Dear Secretary McDonough:

I am referring to you for investigation a whistleblower disclosure that employees of the Department of Veterans Affairs (VA), Eastern Kansas Health Care System, Dwight D. Eisenhower VA Medical Center (Eisenhower VAMC), Leavenworth, Kansas engaged in conduct that may constitute a violation of law, rule, or regulation, and a substantial and specific danger to public safety. A report of your investigation of these allegations and any related matters is due to the Office of Special Counsel (OSC) on July 29, 2024.

██████████, a police officer at Eisenhower VAMC who consented to the release of his name, disclosed law enforcement concerns at the facility. He alleged that agency officials did not remove access to agency firearms in accordance with VA Handbook 0720, *Procedures to Arm Department of Veterans Affairs Police*, and in response to a protective order issued by Platte County, Missouri.¹

The allegation to be investigated follows:

- Agency officials violated VA Handbook 0720, section 3(e), when they did not properly restrict VA Police Officer ██████████ access to the facility armory after he was served with a protective order that prohibited his possession of and access to firearms; and
- Any related allegations of wrongdoing discovered during the investigation of the foregoing allegations.

██████████ reported that on March 29, 2024, the Platte County Sheriff served a protective order on VA Police Officer ██████████ when he arrived for his 6:00 pm shift at the Eisenhower VAMC. The protective order prohibited, among other things, ██████████ possession of firearms. ██████████ advised Lieutenant ██████████, the supervisor on duty, that he had been served with a

¹ ██████████ reported that this allegation is under investigation by the Office of Inspector General and the Office of Operations, Security, and Preparedness resulting in the implementation of some corrective measures.

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protective order. Thereafter, the protective order was faxed to Deputy Chief [REDACTED] for review and to ensure officials understood its contents. By telephone, [REDACTED] instructed [REDACTED] to tell [REDACTED] to take [REDACTED] badge and credentials. [REDACTED] surrendered the badge and credentials. He then went home, changed out of his uniform, and returned to the facility for his night shift. During this night shift [REDACTED] was performing dispatch duties as he was no longer qualified to serve as a police officer. However, VA officials did not take [REDACTED] keys or PIV card.

[REDACTED] explained that VA police officers do not take agency weapons home. Instead, upon arrival at the facility, VA police officers are issued weapons from the armory for their shifts. He reported that because [REDACTED] retained his keys and PIV card he was able to unlock the deadbolt on the armory door and access the weapons. [REDACTED] stated that the police department was advised on April 1, 2024 that [REDACTED] had killed his wife and child, and committed suicide, and a weapon was missing from the VA armory.

Pursuant to my authority under 5 U.S.C. § 1213, I have concluded that there is a substantial likelihood that the information provided to OSC discloses a violation of law, rule, or regulation, and a substantial and specific danger to public safety. Please note that specific allegations and references to violations of law, rule, or regulation are not intended to be exclusive. If, in the course of your investigation, you discover additional violations, please include your findings on these additional matters in the report to OSC. As previously noted, your agency must conduct an investigation of these matters and produce a report, which must be reviewed and signed by you. Per statutory requirements, I will review the report for sufficiency and reasonableness before sending copies of the agency report, along with the whistleblower's comments and any comments or recommendations I may have, to the President and congressional oversight committees and making these documents publicly available.

Additional important requirements and guidance on the agency report are included in the attached Appendix, which can also be accessed at <https://osc.gov/Pages/DOW.aspx>. If your investigators have questions regarding the statutory process or the report required under 5 U.S.C. § 1213, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 804-7088 or cmcmullen@osc.gov for assistance. I am also available for any questions you may have.

Sincerely,



Hampton Dellinger
Special Counsel

Enclosure

cc: The Honorable Michael J. Missal, Inspector General

APPENDIX
AGENCY REPORTS UNDER 5 U.S.C. § 1213

GUIDANCE ON 1213 REPORT

- OSC requires that your investigators interview the whistleblower at the beginning of the agency investigation when the whistleblower consents to the disclosure of his or her name.
- OSC will consider extension requests in 60-day increments when an agency evidences that it is conducting a good faith investigation that will require more time to complete.
- Identify agency employees by position title in the report and attach a key identifying the employees by both name and position. The key identifying employees will be used by OSC in its review and evaluation of the report. OSC will place the report without the employee identification key in its public file.
- Do not include in the report personally identifiable information, such as social security numbers, home addresses and telephone numbers, personal e-mails, dates and places of birth, and personal financial information.
- Include information about actual or projected financial savings as a result of the investigation as well as any policy changes related to the financial savings.
- Reports previously provided to OSC may be reviewed through OSC's public file, which is available here: <https://osc.gov/Pages/Resources-PublicFiles.aspx>. Please refer to our file number in any correspondence on this matter.

RETALIATION AGAINST WHISTLEBLOWERS

In some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to 5 U.S.C. § 1213 also allege retaliation for whistleblowing once the agency is on notice of their allegations. The Special Counsel strongly recommends the agency take all appropriate measures to protect individuals from retaliation and other prohibited personnel practices.

EXCEPTIONS TO PUBLIC FILE REQUIREMENT

OSC will place a copy of the agency report in its public file unless it is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs. 5 U.S.C. § 1219(a).

EVIDENCE OF CRIMINAL CONDUCT

If the agency discovers evidence of a criminal violation during the course of its investigation and refers the evidence to the Attorney General, the agency must notify the Office of Personnel Management and the Office of Management and Budget. 5 U.S.C. § 1213(f). In such cases, the agency must still submit its report to OSC, but OSC must not share the report with the whistleblower or make it publicly available. See 5 U.S.C. §§ 1213(f), 1219(a)(1).