

Department of
Veterans Affairs

Memorandum

Date: April 23, 2010

From: Special Agent, Law Enforcement Oversight & Criminal Investigations (07B1A)

Subj: Supplemental Report, Whistleblower Disclosure referred by the U.S. Office of Special Counsel (OSC), File Number # DI-09-0267.

To: Acting Special Counsel, OSC, Washington D.C.

Thru: Director, Security and Law Enforcement (07)

1. **Scope:** To document subsequent activity regarding OSC File number #DI-09-0267.
2. **Background:** On March 21, 2010, the Complainant in the above referenced disclosure wrote an email to the Director, VA Police Service informing he could respond to written questions relative to this matter (Attachment 1). On April 5, 2010, the complainant returned his responses via email (Attachment 2).
3. **Findings:** A review of the response determined the complainant clearly disagrees with the process used for staffing of the police service starting in October 2008. He references several times a response made to the OSC, dated November 11, 2009 which was not forwarded by the OSC to this office for review.
4. **Recommendation:** The original findings and recommendation remain unchanged. Chief Schuermann followed an appropriate course of action by notifying the Departments program office (OSLE) and requesting an exemption for scheduling. Chief Schuermann included facility stakeholders that included local bargaining units prior to implementing changes. This change in scheduling ceased and went back to standard practice once the staffing situation became more tenable. In the latest response, the complainant acknowledges that this practice has not reoccurred. Based on the evidence presented, it does not appear Chief Schuermann or local VA police management violated exiting rules or law. Please contact the undersigned at 202-461-5544 for any questions.



Kevin Bakke
Special Agent

Bakke, Kevin R.

From: Bakke, Kevin R.
Sent: Friday, March 26, 2010 3:04 PM
To: Woodworth, Donald
Subject: RE: OSC File No. DI-09-0267
Attachments: Mr Woodworth Questions.doc

Mr Woodworth, please find the attached questions for your consideration. Thank you.

From: Woodworth, Donald
Sent: Sunday, March 21, 2010 8:20 AM
To: Doyle, Kevin F
Cc: 'ssmith@osc.gov'; 'cagola@wnycivilrights.com'
Subject: OSC File No. DI-09-0267

Director Doyle;

I can respond to written questions to the above identified OSC File. Trying to accommodate a telephonic interview with everyone's busy schedules currently is impossible. Thank-You for your understanding!

Sincerely;

Don Woodworth

4/22/2010

OSC FILE # DI-09-0267
ATTACHMENT # 1

Bakke, Kevin R.

From: Woodworth, Donald
Sent: Monday, April 05, 2010 2:20 PM
To: Bakke, Kevin R.
Cc: 'ssmith@osc.gov'; 'cagola@wnycivilrights.com'
Subject: Response to written questions of OSC File No. DI-09-0267

Ms. Smith; Will I be able to respond to the updated and revised Investigation Report of Findings that the Agency sends?

Mr. Bakke, your questions have been reformatted to allow answers in between.

BEGINNING-

Thank you for agreeing to respond to written questions in response to your disclosure to the U.S. Office of Special Counsel (OSC), Case # DI-09-0267, dated March 19, 2009.

1. Your disclosure to the OSC, included information that on October 10, 2008, Assistant Chief of VA Police, John Feness directed via e-mail that VA Trainee police officers at VA Medical Center (VAMC) Canandaigua, NY be allowed to assume the duties of full police officers subject to certain restrictions. Is this correct?

Answer: In reviewing all of the materials regarding this OSC complaint, the correct date of Assistant Chief Feness's e-mail is October 22, 2008.

2. If question #1 is correct, what were the restrictions placed on the officers?

Answer: There are several that jeopardized the Safety and Security of Veterans, Employees, Patients, Visitors and the Community. The restrictions were described and rebutted already in my response to your Investigation Report of Findings letter submitted to OSC dated November 11, 2009, and described and rebutted in that same letter from Chief Schuermann's e-mail dated October 24, 2008.

You didn't get a copy of the response for your comment?
 Haven't you spoken to Chief Schuermann about this, and haven't you gathered any other documentation from anyone else besides me regarding this?

3. Do you have a copy of the e-mail, referenced in question 1?

Answer: I do have a copy of that e-mail.

4. If so, are you willing to provide a copy of the email to OSLE?

Answer: I'm obviously disappointed that your "Investigation" is only directed towards getting information from me, but I can forward it if you don't want to conduct a more in depth "Investigation".

Sir, I know your "Investigation" has been biased from the beginning!
 Who can "Investigate" their Supervisor(Kevin Doyle) and Station Chief of Police (Lawrence H. Schuermann jr) with whom regular Contact and Guidance is given with

4/22/2010

OSC FILE # DI-09-02
 ATTACHMENT #2

any Objectivity and Accountability.

Mr. Bakke would you be willing to forward any e-mails from or to Chief Schuermann, from or to your Supervisor Kevin Doyle and from or to you regarding my complaint that you might uncover in your "Investigation" that I could comment on and forward to OSC?

5. Were reasons provided by VA Police management as to why the decision to use "Trainee" officers in the capacity disclosed, was made? If so, what were they?

Answer: The excuses offered in Chief Schuermann's and Assistant Chief Feness's e-mails were recognized as outrageous and false. They also were described and rebutted in my response to your Investigation Report of Findings letter submitted to OSC dated November 11, 2009.

6. In the disclosure to the OSC, it was further alleged the "trainee" officers had not completed the VA Law Enforcement Training Center (LETC) and were not authorized to carry weapons. Is this true?

Answer: The Officers had not been to the LETC at the time Chief Schuermann created this Reality to suit his needs. The three officers at Canandaigua were only authorized to carry the OSC spray and PR-24. I must remind you the emphasis is on the Firearm! I'm sure in your Police experience you've heard the phrase "You don't go to a Gunfight with a Knife", a Metaphorical reference.

7. Do you know if the "trainee" officers had completed their Initial Entry Training prior to working in a patrol capacity as a second officer?

Answer: It is a requirement, but specific and exact dates of the Initial Entry Training can be obtained for your "Investigation" from our Training Officer records.

8. Once an officer completes their Initial Entry Training, do you know if they are then qualified and authorized to carry the intermediate weapons which include the PR 24 Baton and the OC Pepper Spray?

Answer: I'm sorry, but I must question why you keep insisting and inferring that carrying the PR-24 and OC Pepper Spray is sufficient for a "Fully Armed" site, to not include a Firearm, but they can carry the PR-24 after eight(8) hours of training and the OC Spray after three(3) hours of training.

9. How many officers were considered "trainees" during the time frame of concern?

Answer: There were three Officers at the Canandaigua VA.

10. Can you provide the dates when the practice of using "trainee" officers as second officers started and was ended? If it ended, has the practice been used since then?

Answer: The Violation of using the new and not Fully Armed Officers would be when Assistant Chief Feness sent his e-mail on October 22, 2008. Chief Schuermann provided a completion date of January 29, 2009. Two Officers had still not been to the LETC, and did not go until March. Holiday Leave and Hunting Season Leave was now over. Therefore Overtime desired by Officers now was unavailable, allowing a sizable bonus to Chief Schuermann as I indicated in my response to your Investigation Report of Findings letter submitted to OSC dated November 11, 2009. The Violation has not been used since, and it never should have been!

11. Beside the disclosure to the OSC, did you bring your concerns to anyone else in authority such

as the

Chief, Police Service, VAMC Directors Office, and VA Office of Inspector General etc...? If so, did you receive a response?

Answer: Due to Pending Litigation I cannot answer this question at this time.

12. What outcome do you want in response to your disclosure?

Answer: I can only answer with a question. What penalty should be imposed on whomever allowed such an Obvious and Ridiculous thing to happen that Jeopardized so many for a Reward of so Little?

13. Is there anything else you want to add regarding OSC disclosure #DI-09-0267, that was not asked above or that would provide further clarity?

Answer: Trainee Officers were told they could write tickets and then have another officer put their badge number in.

Chief Schuermann "Sold a Bill of Goods" that lacked Legitimacy!

Please review my response letter dated November 11, 2009 that highlights and identifies several areas to

consider regarding my OSC complaint.

This should be Investigated by the Office of Inspector General!

ENDING-

Donald P. Woodworth