

Donald P. Woodworth  
107 South Main Street  
Manchester, NY 14504

November 11, 2009

U.S. Office of Special Counsel  
1730 M Street, N.W. Suite 218  
Washington, D.C. 20036-4505

Re: OSC File No. DI-09-0267

Attn: Ms. Siobhan M. Smith

Dear Ms. Smith;

This letter is in regards to a Report of Investigation, with a cover letter sign off by the Honorable Eric K. Shinseki Secretary of Veterans Affairs; which was returned to the Office of Special Counsel and forwarded to me for comment.

I respectfully disagree with Secretary Shinseki's determination and the information offered as supportive and conclusive in the Investigative Report of Findings on OSC File No. DI-09-0267 that lead to Secretary Shinseki to make his determination!

I offer the following rebuttal:

I disclosed to your office that on October 10<sup>th</sup>, 2008 Assistant Chief of Police John M. Feness notified the Canandaigua VA Police that Trainee Police Officers at our facility could be allowed to assume the duties of full Police Officers subject to certain restrictions and prior to their completion of the Basic VA Police Officer course.

Those restrictions cited in the Report of Investigation include, but are not limited to by inference; that trainees would operate in a back up role only, within their trained capabilities, and would not exercise arrest authority or issue citations. The trainees also should have completed the initial entry training requirements in accordance with VA Handbook 0730 chapter 4 (b), which includes certification in the PR-24 side Handle Baton and Chemical agent Oleoresin Capsicum (OC) intermediate weapons.

In other words the trainees are limited in their assistance and contribute potential liabilities to unforeseen circumstances.

With the limit of only having at the most an intermediate weapon what happens if the situation escalates?

My allegations were that this action was a violation of Section 0730 of the VA Police Handbook and a violation of the Standard Operating Procedure (SOP) instructions for the Canandaigua VA Medical Center. I also described how Federal Guidelines mandate a minimum of two Fully Armed Police Officers on duty on VA property if proximity to major metropolitan area guidelines is met, and this is the case with the Canandaigua VA Medical Center.

I stated the officially listed reason for denial of leave requests is lack of coverage. This is a Contrived Excuse to cover Chief Schuermann's mistakes! I offered that there is no lack

of coverage and that Management only wishes to not pay overtime to other Police Officers who would willingly work. I described my concern for this Management Action as a Potentially Serious Liability concern in the event of any Police action that would limit the response to any dangerous situation without back up. I also offered that the Lead or First Officer sometimes referred to as the Designated Accountable Officer (DAO) would not place another in a potentially dangerous situation under these restrictions. In VA Police Training Unit #18 which is reviewed as a part of the initial training requirements, VA Police are taught the Force Continuum. Armed Officers assess Threat Potential, Tactical Considerations and determine whether or not an Officer can employ Safe and Efficient Tactics. With an Unarmed Trainee Officer as the Second Officer, what considerations under the prescribed restrictions should be made in these uncertain times? This training unit discusses the use of Deadly Force and its application and justification according to the U.S. Justice Department. If all the tools that are authorized aren't available; then why place a Trainee Officer with the responsibility that goes with being a VA Police Officer until fully trained.

Again I emphasize the true reasoning behind the notification was an effort to reduce overtime expenditures caused by Chief Schuermann during upcoming Annual Leave requests for Hunting Season and for the Holidays. I also described my misgivings of VA Central Office allowing this action.

I reaffirm these allegations! With only one armed VA Police Officer on duty, there was a Serious Threat to Public safety that placed Veterans, Patients, Employees, and the Public in Grave Danger if something unfortunate were to occur!

The Staff levels were correct according to Full Time Employee (FTE) mandates of the VA and Facility requirements. Chief Schuermann wanted to make Schedule Changes and Shift Changes that modified the FTE requirements by aligning promotion opportunities with those changes. We couldn't get promotions without changing schedules. His attempts at implementing these self-serving changes caused Morale problems and brought the Service Employees International Union (SEIU) into the disagreement. The situation became confrontational and only subsided when the Federal Impasse Panel was going to be contacted to arbitrate. Chief Schuermann ultimately had to abandon his Controversial effort and we did get promotions.

In the findings section of the Investigation Report of Findings, In October 2008, Canandaigua VAMC chief of Police Lawrence H. Schuermann Jr. requested an exemption to VA's policy involving the number of VA Police Officers on duty at all times from Kevin Doyle, Director of VA's Police Service (Ref. Police Service-Security & Law enforcement Home incl.)

No mention is made of the request simultaneously or previously being made for consideration to the VA Field Facility Medical Center Director, or the Chief Network Officer and Network Director or to the head of the Office of Security & Law Enforcement the immediate Supervisor to Mr. Doyle. All positions identified in the Chain of Command (Ref. VA Dir. 0730 incl.) that are to be consulted in the event of any changes in Law Enforcement Protection. Only a request to Inspector Doyle was made. The VA's Police Service is one of three Main Sections that comprises the Office of Security and Law enforcement (OS&LE) (Ref. Security and Law Enforcement Home

incl.) The other Two Sections are, VA Law Enforcement Training Center (VA LETC) and Security and Investigations Center (SIC).

All Three areas that make up the OS&LE are headed by Mr. Frederick R. Jackson Director for Security and Law Enforcement, who was not contacted for an Exemption. As the Director of the Police Service Section, Inspector Doyle provides Direction, Guidance and Support for Law Enforcement and Physical Security Programs at VA Medical Centers and other VA facilities. In no documentation that I have been able to discover has there been any granted or implied authority given to Inspector Doyle to allow him to grant exemptions to allow reductions in VA police Officer coverage for VA Medical Centers.

I would think only Secretary Shinseki or other Deputy Assistant Secretaries, or even Mr. Frederick Jackson the Director for Security and Law Enforcement could grant policy exemptions after a thorough review. Perhaps this is a question for VA Central Office Counsel?

Continuing on in the findings section, the policy, in VA Handbook 0730, Security and Law Enforcement, chapter 2 9(2) provides, for safety purposes, there should be at least two VA police Officers on duty at all times.

The paragraph continues in VA Handbook 0730 but is not included in the findings section, that the coverage of one VA Police Officer on a given shift may be sufficient if all of the following conditions are met:

- (a) The jurisdiction of the facility is proprietorial and/or concurrent.

Canandaigua VA Medical Center is Exclusive Jurisdiction. This alone excludes single Officer Coverage.

For Full Disclosure I have included the page of VA Handbook 0730 that lists other requirements to be met (b) through (g) some that further exclude the use of only One VA Police Officer for coverage.

Also under VA Handbook 0730, Security and Law Enforcement, chapter 2 a (1) the determination of police staffing levels is based upon a comprehensive vulnerability assessment to include the following:

- (a) The size and physical dispersion of the VA facility (number of acres, buildings, parking areas, etc.)
- (b) The geographic location of the VA facility relative to the setting within the community.
- (c) Environmental conditions. The threat and incidents of crime vary with each locality. A stabilized high crime area or incidence of on-station crime combined with a large center, urban setting, or large acute psychiatric facility will require the defensive deterrent of a larger Police and security unit (three officers or more on duty at all times).
- (d) The impact of certain programs on the property such as drug or alcohol treatment, spinal cord injury, homeless veterans, blind rehabilitation, child care center.
- (e) Total patient and employee population plus transient activity (employees, visitors, patient, vendors, etc.).
- (f) Ability to meet the requirements of the Occupational Safety and Health Administration for protecting employees from violence in the workplace.

Continuing on in the findings section, Police Chief Schuermann made this request to alleviate burdens placed on the Police Service due to manpower shortages.

There were no Manpower Shortages at the Canandaigua VA Medical Center! Consequently, Chief Schuermann was concerned about potential staff "burn out". In no e-mail message or in Staff meetings was "burn out" discussed. This reference only now is offered I believe because of its captivating sound.

Continuing on in the findings section, Six Canandaigua trainees were waiting for school slots to attend the Law Enforcement Training Center (LETC). This is incorrect, there were Three waiting school from Canandaigua, and Three waiting school from Bath VA Medical Center (VA Police managed by Chief Schuermann). The delays were anticipated to exceed 90 days. Canandaigua VA Medical Center officers were hired in May, 2008. They were required to attend the LETC within 90 days of hire. This is a violation of VA Handbook 0730 as well. It is generally understood that Chief Schuermann dropped the ball in completing this requirement. Being the only Manager to have dual responsibilities for two Medical Centers, Canandaigua and Bath, New York, unfortunately Chief Schuermann tries to include the problems at the Bath VA Medical Center Police Section in with Canandaigua which has caused Morale Problems.

Continuing on in the findings section, Mr. Doyle granted the Canandaigua VAMC Police Service a temporary exemption of VA policy until the staffing issue was resolved. On March 25, 2009, Chief Schuermann advised OSLE that on January 24, 2009, the service discontinued using new hires as the second patrol officer when the last two trainees finished at the LETC. This is incorrect as well; one Canandaigua Trainee Officer completed his schooling approximately the first week of December 2008. The last two Trainee Officers completed their schooling approximately the first week of March 2009. The reference to all completions of January 24, 2009 is in line with the end of Annual Leave for Holidays and Hunting Season, consistent with my allegations for real use of trainees to reduce overtime.

Continuing on in the findings section, upon their return, albeit different time frames from what is presented; the facility was at full strength for police staffing. This is true, we now were at an even higher FTE but we were never short staffed. Chief Schuermann had been pressing for a schedule change and rotation of shifts to accommodate his staffing pattern that he said was needed for supervisory reasons. Staff was available to work and promoted officers could also work. In fact Chief Schuermann had on several occasions let it be known that he would fill a shift if needed, but this never happened.

Chief Schuermann reported that there were no negative incidents which resulted from the Staffing Configuration during the Exemption Period.

Everyone is Extremely Happy that nothing unfortunate occurred!

Chief Schuermann reported that all of the new hires had previous law enforcement experience from other departments and/or from the military police. This is true, all VA Police must have this experience, but remember they operated under restrictions that would not allow them to function as a Fully VA Trained Police Officer let alone use previous law enforcement experience in that capacity. He reaffirmed the main reason for the request was to relieve the burden placed on overworked officers (a potential safety issue) by including the new hires in the rotation until they could attend the LETC.

Now let me get this straight, in Managements eyes, relieving the burden of overworked officers, the so called "Burn Out" (which is not the case no matter what Chief

Schuermann says) is a potential safety issue. But, assigning Trainee Police Officers as a second Police Officer with restrictions is not? Nor is it a Liability concern?

This doesn't pass the smell test!

Continuing on in the findings section, from April 6 through April 20, 2009 an OS&LE investigator made several attempts to schedule a telephonic interview with Officer Woodward (Woodworth). These attempts were unsuccessful due to apparent scheduling conflicts with Mr. Woodward's (Woodworth) attorney. Because OS&LE already knew about the information contained in the complaint, and OS&LE had previously granted an exemption to Canandaigua Police Service to operate with less than a fully-staffed patrol, OS&LE determined that additional delays and attempts to interview Mr. Woodward (Woodworth) would not likely provide additional insight into the matter.

I find it unconscionable that an Investigator with a Federal Agency can be predisposed to not seek additional and more precise information to clarify what was in a complaint. A question was raised about the correctness of a decision granting something, and two weeks of e-mails and the stance that additional delay and attempts to interview me would not likely provide additional insight into the matter is ludicrous!

I hope this response does provide additional insight. The OS&LE investigator that contacted me was Inspector Kevin R. Bakke. My initial response to him for an interview was immediate, but I was reminded that a pending Lawsuit in response to actions of Chief Lawrence H. Schuermann Jr. and others against me is making its way through the legal system and that my Attorney should be present for any questioning. I advised Inspector Bakke of this in an e-mail, but he seemed to discount and ignore this fact and tried to push me with his "Suspense Date" deadline that required action soon. I advised him of any Thursday and Friday after April 23, 2009 because they are my days off; although I'm sure I could take Leave for other days. Inspector Bakke then never contacted me again even though Six Months passed until OSC was given the response from Secretary Shinseki.

So much for a "Suspense Date" that required action soon!

OS&LE already knew what was in the complaint and of course since their position is an exemption was granted, thereby establishing a predetermined outcome, I simply was not interviewed. I am including the e-mail correspondence in this response (ref. e-mails started April 6<sup>th</sup>, 2009-April 20<sup>th</sup>, 2009 only two weeks of contacts.)

Furthermore, how can Inspector Bakke who has Regular Contact with Chief Lawrence H. Schuermann Jr. (ref. Police Service-Security & Law enforcement incl.) Investigate a Decision Allegedly Officially made by Inspector Doyle who is his Immediate Supervisor? Inspector Doyle also has regular Official Contact with Chief Schuermann? This certainly exposes a biased approach to in my opinion a predetermined outcome!

In the conclusions section, all new entry level VA Police Officers are employed under the General Schedule 083 police series and are police officers with certain restrictions until all applicable requirements are met; including attendance at a law enforcement training center, which in our case is the LETC. The restrictions include the prohibition to effect arrest and/or issue citations. Another restriction not mentioned is not carrying a firearm. Title 38 U.S.C. 901 provides that the Secretary of Veterans Affairs is responsible for the protection of patients, visitors, and employees of VA medical facilities; the protection of property under the charge and control of VA. In accordance with VA Directive 0730

39(a) (b), the implementation of this program is through the Office of Security and Law Enforcement, which ensures the development and dissemination of policy and procedures related to VA field facility security and law enforcement operations.

This doesn't mean that altering not exempting for ulterior motives is a valid and appropriate reason for jeopardizing the Public Safety of Veterans, Patients, Employees, Visitors and the Community.

Continuing on in the conclusions section Title 38 U.S.C. 901 also provides that VA Field Facility Directors is responsible for ensuring that Law enforcement activities are accomplished in a legally and technically competent manner, and maintaining and equipping a sufficient number of VA Police Officers to ensure the protection of persons and property and the appropriate accomplishment of Law Enforcement Activities. Further reference is made that any change in law enforcement is made in consultation with the Facility Director and OSLE. No mention is made as to whether the Facility Director was consulted as to whether or not he would concur with a reduction in armed Police at his Facility, only that Chief Schuermann went to OS&LE sub-section Police Service Director Kevin F. Doyle. A decreased Overtime Expenditure means a higher bonus for Chief Schuermann. Chief Schuermann did let it slip and tell some Officers that he received a Seven Thousand Dollar Bonus that he applied towards an entertainment center at his residence.

Continuing on in the conclusions section OS&LE received a request for an exemption for patrol officer staffing at the VAMC Canandaigua police service and granted a temporary exemption based on the justification provided by the chief of the service. A Full and Complete Investigation, unbiased and without interference, would show a close relationship exists between OS&LE and Chief Lawrence H. Schuermann Jr.

In fact Chief Schuermann has repeatedly made it known of his goal to move in to the OS&LE as an Investigator.

Continuing on in the conclusions section, this type of exemption has been granted in the past after careful consideration of the impact and potential risks involved and assurance that staffing issues could not be readily resolved. An Overtime Exemption has been approved? One large scale example of this occurred during VA's response to the Gulf Coast relief efforts for hurricanes Katrina and Rita in 2005. Staffing at the Gulf Coast facilities was devastated by the storms, which resulted in shortages at certain facilities and warranted a wide but temporary exemption. Exemptions have also been granted when facilities have experienced critical staffing shortages that could not be remedied by other means.

No supporting evidence offered regarding exemptions only a reference made and the expectation that it should be accepted.

The exemption granted has been granted before after careful consideration and potential risks involved and assurance that staffing issues could not be readily resolved. A repeat of an earlier statement. Are they making a case and stressing that an Overtime saving exemption has been granted before? A reference is then made to compare my allegation to Hurricanes Katrina and Rita as similar? I recall a request sent out to VA Medical Centers during these National Emergencies for Police Officers as well as other professional disciplines, but not for recently hired Trainee Officers to travel to effected areas to help.

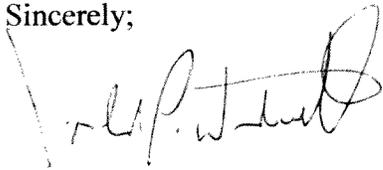
Continuing on in the conclusions section, according to this finding, Chief Schuermann followed the appropriate procedure to request an exemption of the VA policy by notifying the VA's program office (OS&LE) and requesting an exemption for scheduling. This change in scheduling ceased and went back to standard practice once the staffing situation became more tenable.

In conclusion I offer the following:

1. There was a substantial failure by Chief Lawrence H. Schuermann Jr. to protect the Safety and Security of Veterans, Patients, Visitors, Employees and the Community!
2. All Employees that fall under VA Police know that the VA Basic Training and Orientation Course is designed to fulfill the guidelines and standards of the Attorney General for preventing the unauthorized use of Federal Law Enforcement Power. (VA Directive 0730 2 (d) (1).) This course was attended by Chief Lawrence H. Schuermann Jr.
3. There was an Incomplete Investigation to determine the facts of my allegations. In my opinion this is because of a close working relationship between OS&LE and Chief Lawrence H. Schuermann Jr.!
4. An improper Internal Investigation was conducted upon itself by OS&LE.
5. Police Service Director Kevin F. Doyle who granted the Exemption is the Supervisor of Inspector Kevin R. Bakke who investigated the Exemption Decision.
6. Inspector Kevin F. Doyle lacked the Authority to Grant an Exemption by any discernable or offered evidence even after my cursory review of Title 38 512 Delegation of Authority.
7. There were ulterior motives for Chief Lawrence H. Schuermann Jr.'s actions!
8. Appropriate Leadership was not consulted for approval of the Exemption.
9. A finding against Chief Lawrence H. Schuermann Jr. should be made!
10. Consideration for referral to the Justice Department, that VA Police Service Officials submitted a False and Misleading Official Document to the Secretary of Veterans Affairs, the Honorable Eric K. Shinseki's for his signature and approval. Other Improper, Unethical, and perhaps Illegal actions Associated to OSC complaint should be investigated.
11. Assurances No Retribution will be made!

Thank-You for your consideration!

Sincerely;



Donald P. Woodworth



## Welcome to the Office of Security and Law Enforcement Home Page.

### Our Mission

Deliver professional law enforcement and security services while maintaining law and order, and the protection of persons and property, on VA campuses and in buildings under the jurisdiction of the Department of Veterans Affairs.

### Our Vision

To provide 21st century world class police services and operations that most effectively serve VA beneficiaries, employees, and visitors while optimally functioning as a critical and indispensable part of the corporate VA team.

**The Office of Security and Law Enforcement is responsible for the police programs and physical security of the VA. The Office is headed by Mr. Frederick R. Jackson, Director for Security and Law Enforcement and is organized into three main sections:**

**The Police Service , which is headquartered at VA Central Office in Washington, D.C. The Director of Police Service is Mr. Kevin F. Doyle. Police Service provides direction, guidance and support for law enforcement and physical security programs at VA Medical Centers and other VA facilities. The Police Service also provides consultation and liaison services to all elements of the Department and works closely with other Federal law enforcement agencies.**

The VA Law Enforcement Training Center (VA LETC) provides professional training for all VA Police Officers. Through its Enterprise Fund activities, the LETC also provides training services to Federal law enforcement officers in many different agencies.

The Security and Investigations Center (SIC) also an Enterprise Fund activity, provides background suitability and national security investigations and clearances. The SIC also provides these services to other Federal customers.

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## SECURITY & LAW ENFORCEMENT

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### **Police Service**

*Kevin F. Doyle, Director, Police Service*

#### **Program Development and Guidance**

The Director for Security and Law Enforcement is responsible for ensuring that VA has an effective program in place for the protection of the veterans, staff and visitors who use our Medical Centers. The primary official in the Office of Security and Law Enforcement to meet that responsibility is the Director, Police Service. Through an active program of policy reviews and development, along with researching and applying the most modern of police techniques, the Director works to ensure that VA Medical Centers have highly effective VA Police programs.

Each Inspector has responsibility for certain regions of the country and provides direct technical support to the VA Police Chiefs and facility management within those regions. The Inspectors are in regular contact with their respective VA Police Chiefs, responding as needed to trouble spots.

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#### **Police Program Inspections**

In order to ensure the effectiveness of the security and law enforcement programs of VA Medical Centers, the Police Service provides a comprehensive program of on-site inspections. Field Inspectors from the Office of Security and Law Enforcement conduct a careful review of the security and law enforcement posture of each facility at least once every two years. The Inspectors spend several days at each site and review all of the elements of the security and law enforcement program in a detailed manner. After the visit, the Inspector prepares a comprehensive report of findings, which is provided to the facility management through the VHA Network Office for action.

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#### **Criminal Investigations**

The Office of Security and Law Enforcement conducts internal affairs and criminal investigations. The OS&LE staff are empowered by statute to exercise Federal arrest authority for offenses occurring on Department owned property. The Inspectors of the

OS&LE also provide oversight and support to criminal investigations conducted by VA Police units at the 170 VA Medical Centers in support of the organizational mission.

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### **Executive Protection**

The Secretary and Deputy Secretary of Veterans Affairs receive appropriate levels of executive protection. These protective services are provided by the staff of the Office of Security and Law Enforcement and managed by the Director, Police Service

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### **Consultation with other VA Elements**

The Police Service provides direct support and consultation services to all elements of the VA in the areas of Physical Security and Law Enforcement. The Service has worked throughout the Department to ensure that that highest level of protection and enforcement is provided to all veterans and staff who visit or use VA facilities.

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### **Liaison with other Federal Law Enforcement**

Police Service works regularly with several Federal law enforcement agencies in areas such as information sharing, training, planning and policy development.

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Reviewed/Updated Date: September 24, 2009

## SECURITY AND LAW ENFORCEMENT

### 1. PURPOSE

a. This handbook contains mandatory procedures for physical security, law enforcement, and training activities which implement policy for the VA's Security and Law Enforcement program. It provides guidance in the technical and legal security and law enforcement methodology as applied in VA facilities located on Department property, nationwide. The procedures listed below are mandatory.

b. This handbook is set forth solely for the purpose of internal departmental guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, and does not place any limitations on otherwise lawful activities of the Department.

### 2. POLICE AND SECURITY ORGANIZATION AND STAFFING

#### a. Unit FTE

(1) The determination of police staffing levels is based upon a comprehensive vulnerability assessment to include the following:

(a) The size and physical dispersion of the VA facility (number of acres, buildings, parking areas, etc.).

(b) The geographic location of the VA facility relative to the setting within the community.

(c) Environmental conditions. The threat and incidents of crime vary with each locality. A stabilized high crime area or incidence of on-station crime combined with a large center, urban setting, or large acute psychiatric facility will require the defensive deterrent of a larger Police and Security unit (three officers or more on duty at all times).

(d) The impact of certain programs on the property such as drug or alcohol treatment, spinal cord injury, homeless veterans, blind rehabilitation, child care center;

(e) Total patient and employee population plus transient activity (employees, visitors, patients, vendors, etc.).

(f) Ability to meet the requirements of the Occupational Safety and Health Administration for protecting employees from violence in the workplace.

(2) For safety purposes, there should always be at least two VA police officers on duty, at all times, at any facility or division. However, the coverage of one VA police officer on a given shift may be sufficient if all of the following conditions are met:

- (a) The jurisdiction of the facility is proprietorial and/or concurrent.
  - (b) Criminal activity in the community immediately surrounding the facility is below 7 percent based upon the Federal Bureau of Investigation Uniform Crime Reports.
  - (c) There is no more than one psychiatric ward at the facility or division.
  - (d) The facility experiences low levels of on-station crime.
  - (e) The facility experiences few patient-related disturbances.
  - (f) There are memoranda of understanding with local law enforcement agencies which ensure timely backup support for VA police officers.
  - (g) Patrolling VA police officers are equipped to make immediate and direct contact with the local law enforcement agency that has agreed to provide backup.
- b. Shift Rotation.** Chiefs, Police and Security units have the authority to temporarily exempt an officer from shift rotation due to law enforcement related educational programs, or when the officer is temporarily detailed to special duty assignments.
- c. Duty Assignments.** VA police officers will rotate among the various duty assignments within each shift in an equitable manner.
- d. Continuous Coverage.** VA police officer shifts will be established in such a way as to ensure continuous coverage during major employee shift changes.

### 3. HUMAN RESOURCES ISSUES

- a. Pre-Employment Screening Process.** The completion of VA Form 0120, VA Police Officer Pre-Employment Screening Checklist, is the joint responsibility of Human Resources Management Service and Police and Security Service. The following is a uniform process for conducting and documenting VA police officer applicant pre-employment qualification and suitability screening.
- (1) Human Resources Management Service is responsible for:
    - (a) Reviewing applicants' employment applications to determine whether qualifications under the current standards are present;
    - (b) Referring qualified applicants to the Chief, Police and Security unit for interview;
    - (c) Conducting telephonic interviews of former employers to verify listed qualifying experiences and work habits of tentatively selected applicants;

**SECURITY AND LAW ENFORCEMENT**

1. **REASON FOR ISSUE:** To revise directives and policy formerly contained in VHA Supplement to MP-1, Part I, Chapter 2, Section B, Center Security and Law Enforcement.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth the policies and responsibilities for the maintenance of law and order and the protection of persons and property on Department property. It contains:
  - (1) Policy statements regarding the-management of the program from Central Office and at field facilities;
  - (2) The training of VA police officers; and
  - (3) Responsibilities for implementing and managing the security and law enforcement program, to include those of the Deputy Assistant Secretary for Security and Law Enforcement.
3. **RELATED HANDBOOK:** VA Handbook 0730, Security and Law Enforcement.
4. **RESPONSIBLE OFFICE:** The Police and Security Service, Office of Security and Law Enforcement, is responsible for the material contained in this directive.
5. **RESCISSIONS:** VHA Supplement to MP-I, Part 1, Chapter 2, Section B, Center Security and Law Enforcement, dated July 23, 1986, Appendices A-C thereto, dated July 23, 1986, and Interim Issue 10-87-5, dated June 26, 1987.

**CERTIFIED BY:**

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS**



Acting Principal Deputy Assistant Secretary  
for Information and Technology



Assistant Secretary for Human  
Resources and Administration

DISTRIBUTION: RPC 3280  
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## SECURITY AND LAW ENFORCEMENT

### 1. PURPOSE

a. This directive implements the provisions of Title 38 U.S.C. Chapter 9 pertaining to the Department of Veterans Affairs (VA) nationwide Security and Law Enforcement program. It encompasses the maintenance of law and order and the protection of persons and property on Department property. It provides policies applicable to the management and administration of this program from VA Central Office and within VA facilities nationwide located on Department property. Detailed physical security and law enforcement program requirements and procedures are contained in VA Handbook 0730, Security and Law Enforcement.

b. This directive is set forth solely for the purpose of internal departmental guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, and does not place any limitations on otherwise lawful activities of the Department.

### 2. POLICY

#### a. Police and Security Unit Organization and Staffing

(1) Within a VA field facility, police resources are ~~organizationally placed and structured~~ in such a manner as to ensure appropriate monitoring of law enforcement activities. The organizational title of each unit will include the words "Police and Security." A Police and Security unit is supervised from the office of the VA field facility head and will not be a subordinate part of any other organizational unit.

(2) Each Police and Security unit must be supervised by a qualified law enforcement professional or a supervisory police officer. This supervision encompasses full technical responsibility for conducting law enforcement and physical security operations as described in this directive and VA Handbook 0730.

(3) Each VA field facility or division will have a sufficient number of VA police officers on duty, at all times, necessary to maintain law and order and to concurrently provide protection of persons and property throughout the facility. At no time will a VA field facility or division be left without VA police officer coverage, to include provisions for appropriate and timely backup. Factors for determining the level of police staffing are contained in VA Handbook 0730.

(4) All police personnel will be assigned duties and responsibilities consistent with the organizational responsibilities for the maintenance of law and order and protection of persons and property on Department property. Police personnel will not be assigned duties and responsibilities

that would in any manner detract from the above stated purpose or that are outside their scope of employment.

(5) VA police officers will be rotated on each duty shift on an equitable and uniform basis. An officer must spend an equal amount of time on each shift during any given 12 month period. Duty shift rotation ensures the equitable distribution of workload intensity; the exposure of all VA police officers to the full spectrum of duty experiences; and the uniform application of performance standards, evaluations, training, and promotion opportunities. Police officers pursuing formal job related educational programs may be exempted from shift rotation until completion of the educational program.

(6) VA police officers will be rotated among duty assignments within each duty shift.

#### **b. Police Code of Conduct**

(1) In order to fully serve the VA mission while accomplishing their specific law enforcement and protective duties, Police and Security personnel will:

(a) Render courteous assistance to patients, visitors, and employees at all times;

(b) Project a favorable image of law enforcement and protective authority through alertness, appearance, and competent performance of duty;

(c) Retain full control of temper when abused or in a confrontation with a belligerent person; and

(d) Refrain from verbally or physically abusing patients, visitors, or employees displaying an arrogant or bullying demeanor, and misusing authority or weapons.

(2) Infractions of any one of the listed codes of conduct may be cause for disciplinary or adverse action.

#### **c. Human Resources Issues**

(1) **Qualification.** Persons employed as VA police officers must meet the current qualification standards for the GS-4 level of the GS-083 Police Series. The employment of persons at lower than the GS-4 level within the police series or the employment of persons in the GS-085 Guard Series is not authorized.

(2) **Suitability.** A prospective police officer's general background and work history must reflect personal characteristics of trustworthiness and overall fitness to carry out the duties and public trust inherent to the position. No person will be employed as a VA police officer whose history reflects a disregard for laws and regulations.

(3) **Pre-Employment Screening Process.** Pre-employment screening procedures for police officer applicants under final consideration for selection will be accomplished as outlined in VA Handbook 0730. Applicants will not be appointed prior to the completion of the full pre-employment screening process.

(4) **Sensitivity Level Designation.** All police officer positions will be designated as Noncritical-Sensitive. The Human Resources Management Service will initiate post-appointment minimum background investigations on all police hired.

(5) **Medical Standards.** All police officer applicants and those currently employed must be capable of performing the designated physical and mental functional requirements essential to the duties of the police officer position. These requirements are contained in VA Handbook 0730.

(6) **Notification of Weapon Policy and Arrest Reporting.** A VA Form 9044, Weapon Policy, Law Enforcement Jurisdiction, and Arrest Reporting, will be provided to each newly employed VA police officer for reading of part I, the notification, and signing of part II, the acknowledgment of notification. The responsibility for this function will be determined at the local level.

(a) Unless otherwise authorized by VA policy, a VA police officer will not possess or introduce a firearm on VA property while scheduled for VA duty even though the officer may be authorized or required to possess that firearm by virtue of non-VA employment or any other reason. For more detailed information on firearms and VA police, see VA Directive 0720, Program to Arm Department of Veterans Affairs Police and VA Handbook 0720, Procedures to Arm Department of Veterans Affairs Police.

(b) VA police officers will promptly inform the supervisor if arrested for any criminal offense except for traffic and parking citations that do not result in criminal charges.

1. A VA police officer who is arrested is required to inform the appropriate supervisor on the first working day that the officer reports to work after the incident.

2. This report will include the alleged offense(s), to include whether a felony or misdemeanor, date of alleged offense(s), and the name of the arresting jurisdiction.

**d. Basic and Specialized Training**

(1) The VA basic training and orientation course is designed to fulfill the guidelines and standards of the Attorney General for preventing the unauthorized use of Federal law enforcement power. With emphasis on specialized aspects of security and law enforcement in the health care environment, it also provides VA police officers with the knowledge and skills to successfully manage situations involving patients. All VA police officers are required to attend and successfully complete the prescribed course during the first 90 days of employment. This includes full-time, intermittent, and part-time employees. Training is conducted by VA instructors at the VA Law Enforcement Training Center, VA Medical Center, North Little Rock, Arkansas.

(2) As specified in Title 38 CFR 1.218(c)(2), a police officer's failure to successfully complete the prescribed training course requires that the employing VA field facility withdraw statutory law enforcement and arrest authority vested in that police officer.

(3) VA police officers who have left the Police and Security unit employment and return after 3 years of separation will be required to attend and successfully complete the basic police officer training course. Any exceptions to this must be approved by the Director, Police and Security Service.

(4) All VA police officers will be trained in the use of the designated and approved VA weapon(s). Recertification in the use of the baton will be made on an annual basis. Initial training and recertification are accomplished at the local level by qualified VA staff. Training and recertification in the use of firearms will be in accordance with the policies and procedures outlined in VA Directive and VA Handbook 0720, Program to Arm Department of Veterans Affairs Police.

(5) All VA police officers will undergo initial entry and continuing in-service training.

(6) VA police officers may be required to periodically attend refresher training courses at the VA Law Enforcement Training Center. Failure to attend such courses when scheduled may result in the withdrawal of an officer's law enforcement and arrest authority.

**e. Police and Security Unit Operations.** Police and Security unit operations are based on the physical security and law enforcement functions necessary to carry out the program's mission.

(1) **Standard Operating Procedure.** Each VA field facility will establish a Standard Operating Procedure (SOP) that provides general and specific methods and guidance to VA police officers to ensure the efficient and effective operation of the Police and Security unit.

(2) **Police Operations Room.** Each VA field facility will establish an Operations Room from which police operations can be most effectively controlled. H-08-9, Chapter 279, Planning Criteria for VA Facilities, Police and Security Service, will be used as minimum standards for space allocation.

**f. Physical Security**

(1) The minimum requirements for physical security at a VA field facility are outlined in appendix B of VA Handbook 0730. These include specifications for physical barrier security, lock set hardware, alarms, and storage containers for high value items and dangerous drugs.

(2) Other mandatory physical security aspects and techniques are contained in paragraph 6, Physical Security, of VA Handbook 0730.

**g. Law Enforcement**

(1) Legally and technically correct procedures must be established for handling the occurrences of crimes in violation of Federal and state laws on VA field facility grounds.

(2) The VA Regional Counsel or designated local VA attorney is the primary legal advisor to the Director. Advice will be sought from Regional Counsel whenever Federal, state, or local law enforcement agencies, district attorneys, or court officials are involved in local policy matters related to law enforcement.

(3) Title 38 U.S.C. §902(a)(1) authorizes VA police officers to enforce Federal laws and the rules prescribed by the Secretary in Title 38 CFR 1.218(a) and (b). The exercise of all enforcement actions and uses of arrest authority shall be in accordance with the policies and procedures contained in this directive and VA Handbook 0730.

(4) The delegation of VA police officer law enforcement, investigative, and arrest authority is found in Title 38 CFR 2.6(a)(8).

(5) Directors of Veterans Health Administration (VHA) facilities are responsible for ensuring that VA police officers are fully qualified under the appropriate Office of Personnel Management VA Qualification Standard (GS-083 Police Officer Series and the GS-080 Security Officer Series) prior to vesting law enforcement and arrest authority.

(6) The vesting of this authority requires the VA field facility director to issue VA Form 1479, Police Officer Appointment Card, to each appointee.

(a) Upon the transfer, resignation, or retirement of a VA police officer, the Police Officer Appointment Card will be withdrawn by the facility director from the employee and destroyed.

(b) When the suspension of the law enforcement and arrest authority of an officer is required, the Police Officer Appointment Card will be withdrawn by the facility director.

(7) Directors of all VA field facilities will request the VA Regional Counsel to ensure that a Rule of Court exists with the respective U.S. District Courts. This will enable the issuance of VA Form 9019, U.S. District Court Violation Notice, in the enforcement of the petty offenses enumerated in Title 38 CFR 1.2 18(b).

(8) Timely investigations of reported crimes and acts of misconduct will be performed by VA police officers.

**h. Safeguarding Evidence and Property in the Custody of Police.** A record and chain of custody must be established for Government and personal property, contraband, or evidence. Evidence and property will be handled and secured and the chain of custody maintained in

accordance with accepted Federal court procedures. VA-specific procedures are contained in paragraph 8, Safeguarding Evidence and Property in the Custody of Police, of VA Handbook 0730.

**i. Records and Reports.** All records, guides, and reports will be prepared, used, filed, and disposed of in accordance with VHA Records Control Schedule (RCS) 10-1.

**j. Weapons.** Only those weapons specifically authorized by the Department of Veterans Affairs will be issued, used, or stored for designated security and law enforcement purposes. Policy and procedure relating to the arming of VA police are contained in VA Directive and Handbook 0720, Program to Arm Department of Veterans Affairs Police.

**k. Parking and Traffic Control**

(1) Each VA field facility will develop parking and traffic control systems to meet local needs.

(2) Once a system for the control of parking is designed, rules and procedures will be prominently posted prior to enforcement.

(3) All parking areas will be posted with signs clearly designating time limits, reserved spaces, and enforcement methods in effect.

**l. Police Uniform and Appearance**

(1) VA police officers will wear uniforms and equipment as prescribed in VA Handbook 0730. Locally procured badges, shoulder patches, and variations in uniform color and style are not authorized and are prohibited.

(2) Each VA police officer is expected to maintain a high standard of personal hygiene and appearance. Specific standards of appearance are found in VA Handbook 0730.

**m. National Crime Information Center (NCIC) and National Law Enforcement Telecommunications System, Inc. (NLETS)**

(1) The National Crime Information Center (NCIC)

(a) Each VA field facility must have an FBI-assigned Originating Agency Identifier (ORI) before access to NCIC files is authorized. The FBI places complete responsibility for proper and responsible use of this system on each agency, whether Federal, state, or local.

(b) Each VA field facility should have an established user agreement with the state Control Terminal Agency (CTA) that specifically defines the duties and responsibilities of both parties.

(c) Each VA field facility must comply with the state CTA rules and regulations, audit, security, and training standards. Training standards must comply with the NCIC Advisory Board Training Mandate of 1984.

(d) NCIC records are sensitive criminal justice information. A VA field facility operating an NCIC/NLETS terminal is obligated to implement necessary procedures for terminal access security and to maintain the confidentiality of criminal justice information. Detailed discussions of system use are found in the NCIC Operating Manual, state operating manuals, FBI operational and technical updates, and other appropriate information disseminated by the CTA.

(e) The NCIC Interstate Identification Index (III) criminal history records may only be accessed for the purposes of VA police officer pre-employment screening and investigations conducted by VA police.

(f) All NCIC (III) and state criminal history queries must be logged for a minimum period of 1 year.

(2) National Law Enforcement Telecommunications System, Inc. (NLETS)

(a) To access NLETS, a VA field facility must possess an FBI-assigned ORI.

(b) As with the use of the NCIC, each VA field facility should have an established user agreement with the CTA which specifically defines the duties and responsibilities of both parties.

(c) Each VA field facility must comply with the NLETS, state, and CTA rules, regulations, and standards. The NLETS User's Guide is used as the standard reference guide for system policies and procedures.

(d) State records are sensitive criminal justice information. A VA field facility operating a terminal must implement procedures for terminal access security and maintain the confidentiality of criminal justice information. Detailed discussions of system use are found in the state operating manual, operational and technical updates, and other information disseminated by the CTA.

### 3. RESPONSIBILITIES

a. **Secretary of Veterans Affairs.** By the provision of Title 38 U.S.C. § 901, the Secretary is responsible for:

- (1) The protection of patients, visitors, and employees at VA medical facilities;
- (2) The protection of property under the charge and control of VA; and
- (3) The maintenance of law and order on property under the charge and control of VA.

b. **Assistant Secretary for Human Resources and Administration.** The Assistant Secretary for Human Resources and Administration will ensure the appropriate implementation and operation of this program through the Office of Security and Law Enforcement.

**c. Deputy Assistant Secretary for Security and Law Enforcement.** The Deputy Assistant Secretary for Security and Law Enforcement is responsible for:

- (1) Ensuring the development of policy and procedures related to VA field facility security and law enforcement operations;
- (2) Ensuring that investigations are conducted of alleged criminal activity related to VA field facility law enforcement and security;
- (3) Ensuring the protection of the Secretary of Veterans Affairs while on VA property and, through special delegations from the Department of Justice, off VA property; and
- (4) Ensuring that appropriate training is provided to VA police officers.

**d. Director, Police and Security Service.** The Director, Police and Security Service, is responsible for:

- (1) Developing, coordinating, and disseminating policy and procedures related to VA field facility security and law enforcement operations;
- (2) Providing technical guidance to VA field facility directors and Chiefs of Police and Security units;
- (3) Providing inspective oversight of VA field facility Police and Security units;
- (4) Conducting investigations of alleged criminal activity related to VA field facility law enforcement and security; and
- (5) Providing for the protection of the Secretary of Veterans Affairs while on VA property and, through special delegations from the Department of Justice, off VA property;

**e. Director, Law Enforcement Training Center.** The Director, Law Enforcement Training Center, is responsible for:

- (1) Developing policy regarding training requirements for VA police officers;
- (2) Developing and providing basic and specialized training to VA police officers;
- (3) Managing the VA Law Enforcement Training Center; and
- (4) Establishing procedures to ensure that VA police officers receive appropriate in-service training.

**f. Chief Network Officer and Network Directors.** The CNO and Network Directors will ensure that all requirements of this program are fulfilled.

**g. VA Field Facility Directors.** Directors of VA field facilities located on Department property are responsible for:

- (1) Providing for the protection of persons on Department property in accordance with the standards set forth in this directive and in Handbook 0730;
- (2) Providing for the protection of Government property;
- (3) Ensuring that law enforcement activities are accomplished in a legally and technically correct manner; and
- (4) Maintaining and equipping a sufficient number of VA police officers to ensure the protection of persons and property and the appropriate accomplishment of law enforcement activities.

**h. Chief, Police and Security.** The Chief is responsible for:

- (1) Implementing legally and technically correct law enforcement practices and physical security operations; and
- (2) Providing guidance and in-service training to meet program and VA field facility goals and objectives.

**i. VA Police Officers.** VA police officers are responsible for:

- (1) Conducting law enforcement and physical security tasks consistent with crime prevention goals and objectives for VA field facility security;
- (2) Performing duties and responsibilities commensurate with law enforcement and physical security needs of the VA field facility;
- (3) Rendering courteous assistance to beneficiaries, visitors, and employees; and
- (4) Exercising leadership and control during emergency situations.

#### 4. REFERENCES

- a. Title 38, Code of Federal Regulations §1.2 18
- b. Title 38, Code of Federal Regulation §2.6
- c. Title 38 United States Code §901-905

## Woodworth, Donald

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**From:** Woodworth, Donald  
**Sent:** Monday, April 20, 2009 12:16 PM  
**To:** Bakke, Kevin R.  
**Subject:** RE: Office of Special Counsel Case

Inspector Bakke;  
I refer back to the e-mail regarding the inclusion of my Attorney. Beyond that, no comment!  
Thank-You

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**From:** Bakke, Kevin R.  
**Sent:** Monday, April 20, 2009 10:45 AM  
**To:** Woodworth, Donald  
**Subject:** RE: Office of Special Counsel Case

I have a suspense date that requires action soon. My review of the initial complaint finds it to be pretty clear and straight forward. If you believe your initial complaint to the Office of Special Counsel contains the information you intended, I can proceed with the information I have already gathered to complete this matter. As you are the complainant, I'm not sure what your concerns are regarding this interview, but let me know today so I can move forward. Thanks.

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**From:** Woodworth, Donald  
**Sent:** Monday, April 20, 2009 10:30 AM  
**To:** Bakke, Kevin R.  
**Subject:** RE: Office of Special Counsel Case

Ms. Agola has a previous appointment at that time.  
Could we try Thursday 4/30 @ 0900hrs or Friday 5/1 @ 0900hrs?

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**From:** Bakke, Kevin R.  
**Sent:** Friday, April 17, 2009 7:57 AM  
**To:** Woodworth, Donald  
**Subject:** RE: Office of Special Counsel Case

Friday the 24th at 1030. Thanks again.

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**From:** Woodworth, Donald  
**Sent:** Thursday, April 09, 2009 1:49 PM  
**To:** Bakke, Kevin R.  
**Subject:** RE: Office of Special Counsel Case

We have to reschedule from this Monday to any Thursday or Friday after April 23<sup>rd</sup>.  
My attorney is out of town until then. Pick the day and time and I will check with the attorney for any conflicts. I will call you at the appointed time from that office. My attorneys name is Christina A. Agola.  
Sorry for the delay, and Thank-You!

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**From:** Bakke, Kevin R.  
**Sent:** Thursday, April 09, 2009 8:04 AM  
**To:** Woodworth, Donald  
**Subject:** RE: Office of Special Counsel Case

I'll call the below listed number(s) on Monday at 1030. Thank you.

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**From:** Woodworth, Donald  
**Sent:** Wednesday, April 08, 2009 9:08 AM  
**To:** Bakke, Kevin R.  
**Subject:** RE: Office of Special Counsel Case

Either # is our office sir.  
585-393-7403 or 585-393-7405

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**From:** Bakke, Kevin R.  
**Sent:** Wednesday, April 08, 2009 7:54 AM  
**To:** Woodworth, Donald  
**Subject:** Re: Office of Special Counsel Case

Let's try Monday at 1030. Please send me a good number to call. Thank you.

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**From:** Woodworth, Donald  
**To:** Bakke, Kevin R.  
**Sent:** Mon Apr 06 16:51:24 2009  
**Subject:** RE: Office of Special Counsel Case  
Inspector Bakke,

Would the first part of the week be convenient for you? Mon-Wed?

Thank-You!

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**From:** Bakke, Kevin R.  
**Sent:** Monday, April 06, 2009 3:07 PM  
**To:** Woodworth, Donald  
**Subject:** Office of Special Counsel Case

Mr Woodworth,

I have been assigned to review a "whistleblower" complaint that was forwarded from the Office of Special Counsel (OSC) to the VA Secretary regarding a matter initiated by you. As you consented to the release of your name, the OSC policy requires investigators assigned to these types of cases to interview the complainant. The purpose of this email is to afford you the opportunity to speak with me about the facts and circumstances of your complaint. This is voluntary and you can decline to be interviewed. Further, you would be protected under any applicable disclosure laws related to these types of cases.

If you wish to speak with me, I would like to set up a telephone interview next week at your convenience. Please note that I will be unavailable on the 16th (Thursday). Please let me know if you are willing to speak with me further.

Thank you.

Kevin Bakke  
Inspector, VA Police CID & L.E. Oversight (07B1A)  
VACO, Washington, D.C.  
Phone - (202) 461-6596  
Fax - (202) 273-7094