



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

March 4, 2011

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

Re: OSC File No. DI-10-4007

Dear Mr. Reukauf:

Enclosed is the Department of Veterans Affairs' (VA) report in response to your request of November 9, 2010, to investigate allegations that VA employees violated Federal law and VA policy by sending inappropriate emails.

VA, with assistance from the Federal Bureau of Investigation, investigated these allegations and determined that no criminal violations occurred, but that nine VA employees violated VA policy. As a result, as detailed in the enclosed report, the Agency is taking appropriate administrative action against these employees.

I have reviewed the report and concur with the findings and conclusions. Thank you for the opportunity to respond to this issue.

Sincerely,

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

Eric K. Shinseki

Enclosure

OSC Detroit-DI-10-4007 Report

I. SUMMARY OF INFORMATION WITH RESPECT TO WHICH THE INVESTIGATION WAS INITIATED

An investigation was conducted in response to a November 9, 2010, letter from the Office of Special Counsel (OSC) (OSC File No. DI-10-4007) regarding allegations made by a VA employee at the John D. Dingell VA Medical Center (JDDVAMC), Sonya Green, that her second-level supervisor, Associate Chief of Nursing Marla Gresham, forwarded offensive emails using government office equipment while on duty. OSC was concerned that the images contained in these emails may constitute child pornography under 18 U.S.C. § 2256(8). Additionally, the sending of offensive and chain emails is prohibited by VA Directive 6001, sections 2c(4) and 2c(3), respectively. OSC also expressed concern that additional VA employees had forwarded the emails in question, as the email chain appeared to include employees of the VA Medical Center at Loma Linda, California.

II. CONDUCT OF THE INVESTIGATION

On November 15, 2010, the Agency forwarded this case to its Office of Inspector General (OIG) for investigation into possible criminal violations. OIG conferred with officials from the Federal Bureau of Investigation (FBI) Innocent Images Unit and determined that the images did not constitute child pornography, and that no criminal violation had occurred. As a result, OIG referred the case back to the Agency for administrative investigation.

JDDVAMC leadership tasked the Chief of Protection and Support Service, the Facility Information Security Officer, the Associate Director for Patient Care Services, and the Chief of Human Resources with conducting an investigation into these allegations. The Associate Director for Patient Care Services questioned Ms. Gresham about these allegations and Ms. Gresham admitted sending the emails in question. The investigation also revealed that four additional JDDVAMC employees had forwarded the inappropriate emails. Facility leadership from Loma Linda also investigated allegations that these emails originated in Loma Linda and substantiated that four employees forwarded the emails in question.

III. SUMMARY OF EVIDENCE

In addition to the emails and pictures provided by OSC, the evidence obtained through investigation confirmed that Ms. Gresham and four additional JDDVAMC employees, along with four employees from Loma Linda, violated VA policy by forwarding the emails in question.

IV. SUSTAINED OR UNSUSTAINED VIOLATIONS

Due to the nature of the emails and photographs submitted as evidence in this investigation, JDDVAMC and Loma Linda officials substantiated that employees violated VA Directive 6001 sections 2c(3) and 2c(4). However, upon review by OIG and the FBI Innocent Images Unit, there is no evidence of criminal violations.

V. ACTION TAKEN

Admonishments have been proposed for all five JDDVAMC employees who violated VA Directive 6001, although one employee has since retired. The facility will further require the employees to retake HIPAA and Information Security Training. The four Loma Linda employees are also facing proposed admonishments.