



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

September 21, 2011

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-10-0157

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report based on disclosures made by a whistleblower at the Department of Veterans Affairs (VA), Canandaigua VA Medical Center (Canandaigua VAMC) Police Service, Canandaigua, New York. The whistleblower, Donald Woodworth, who consented to the release of his name, is a police officer at the Canandaigua VAMC. Mr. Woodworth alleged that employees at the Canandaigua VAMC improperly issued government-mandated Personal Identity Verification (PIV) credentials.

Mr. Woodworth's allegations were referred to the Honorable Eric K. Shinseki, Secretary, VA, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). On April 11, 2011, the Secretary submitted the agency's report to this office. Mr. Woodworth provided comments on the report pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report and Mr. Woodworth's comments to you.

Mr. Woodworth disclosed that from September 12, 2009, to September 29, 2009, Canandaigua VAMC Police Chief Lawrence Schuermann allowed Officer Jason Eldridge to improperly issue PIV card credentials by using Assistant Chief John M. Fenness's PIV card while Assistant Chief Fenness was on vacation. Pursuant to *Federal Information Processing Standards Publication, Personal Identity Verification (PIV) of Federal Employees and Contractors*, or FIPS PUB 201-1, App. A.1.1.1, in order to properly issue a PIV card, there are several critical roles that must be filled to maintain the integrity of the identity proofing and registration process involved in PIV issuance. These roles include PIV Sponsor, Registrar, and Issuer. Each of these roles must be mutually exclusive, meaning that no individual shall hold more than one of these roles during the proofing and registration process.

Mr. Woodworth stated that Officer Eldridge was originally assigned to the role of either Registrar or Issuer, but when using Assistant Chief Fenness' card, he was able to bypass those roles and complete the tasks for each of the mutually exclusive roles at the same time.

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Thus, by allowing Officer Eldridge to use the Assistant Chief's PIV card to issue new PIV cards to employees, contractors, and visitors, the mutual exclusivity of these roles was compromised in violation of government-wide policy, creating a potential security gap.

The VA's investigation substantiated Mr. Woodworth's allegations. When interviewed, both Assistant Chief Feness and Officer Eldridge admitted that Assistant Chief Feness provided his PIV card and personal identification number (PIN) to Officer Eldridge while Assistant Chief Feness was on leave. Officer Eldridge then used Assistant Chief Feness' PIV card and PIN to process PIV cards without a proper separation of duties in violation of FIPS PUB 201-1 and Homeland Security Presidential Directive 12 (HSPD-12). Additionally, while Canandaigua VAMC Associate Director Margaret Owens and Chief Schuermann initially denied having knowledge of any violations of PIV card policy prior to the initiation of the investigation on May 10, 2010, the investigation revealed that they were notified in emails sent to Director Craig Howard, Ms. Owens, and Chief Schuermann on September 21, 2009, and September 28, 2009, which described the PIV card violations and requested that they cease. However, Ms. Owens and Chief Schuermann failed to take appropriate action following this notification, and Mr. Howard did not ensure that the matter was resolved.

As a result of these findings, Canandaigua VAMC leadership issued written counseling to lower-level police employees and written reprimands to Chief Schuermann and Assistant Chief Feness. Veteran's Health Administration Veterans Integrated Service Network 2 leadership orally counseled Mr. Howard for failing to ensure that the matter had been investigated, and issued a letter of counseling to Ms. Owens for failing to timely investigate the matter. The HSPD-12 Program Office also suspended badging privileges for those employees found to have violated FIPS requirements, and implemented a communications plan to educate all VA PIV Office teams regarding the requirement to maintain a separation of roles for Sponsors, Registrars, and Issuers.

In his comments, Mr. Woodworth stated that while he is pleased that his allegations were substantiated, he believes that the agency's response is inaccurate and incomplete. Mr. Woodworth disagrees with the corrective remedies taken as a result of the agency's investigation, and feels that the sanctions against the employees responsible for the wrongdoing should have been more substantial. In particular, he feels that Ms. Owens and Chief Schuermann should have been prosecuted for violations of 18 U.S.C § 1001 and 18 U.S.C. § 1028 for making false statements to investigators. Mr. Woodworth also contended that while Chief Schuermann's PIV badging privileges were suspended following the agency's investigation, these privileges were restored within two weeks. Finally, Mr. Woodworth stated that the agency report does not address whether the agency has investigated whether any unauthorized employees were granted PIV cards due to the violation of PIV card policy.

I have reviewed the original disclosure, the agency's report and Mr. Woodworth's comments. Based on that review, I have determined that the agency's report contains all of the information required by statute, and the findings appear to be reasonable.

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As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency's report and Mr. Woodworth's comments to the Chairmen and Ranking Members of the Senate and House Committees on Veterans' Affairs. I have also filed copies of the report, as revised by the VA to include only employees' titles,¹ and Mr. Woodworth's comments in our public file, which is now available online at www.osc.gov. This matter is now closed.

Respectfully,



Carolyn N. Lerner
Special Counsel

Enclosures

¹The VA provided OSC with a report containing employee names and titles (enclosed), a redacted report containing neither employee names nor titles, and a revised report, which substitutes duty titles for the names of the employees referenced therein. The VA cited the Freedom of Information Act (FOIA) (5 U.S.C. § 552) and Privacy Act of 1974 (Privacy Act) (5 U.S.C. § 552a) as the bases for its redactions to the report produced in response to 5 U.S.C. § 1213, and requested that OSC post the redacted version of the report in our public file. OSC objects to the VA's use of FOIA to remove these names because under FOIA, such withholding of information is discretionary, not mandatory, and therefore does not fit within the exceptions to disclosure under 5 U.S.C. § 1219(b). OSC also objects to the VA's use of the Privacy Act to remove the names of each employee on the basis that the application of the Privacy Act in this manner is overly broad. Based upon these objections, we have instead posted the revised version of the VA's report, containing only employee titles.