

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

Donald P. Woodworth
107 South Main Street
Manchester, N.Y. 14504

June 1, 2011

Re: OSC File No. DI-10-0157

Dear Mr. Reukauf;

Thank-You for the opportunity to respond to the Department of Veterans Affairs Report of Investigation of OSC File No. DI-10-0157 dated April 11, 2011. Upon reading the cover letter and accompanying Summary Report I realized the response from the agency is inaccurate and incomplete. I was pleased to read that my allegation was substantiated. It is noted that VA has taken several steps to address the issue to ensure the integrity of the PIV badge issuance process, and that system integrity remains a paramount element of VA's enrollment program. If only this were true!

The response further states that VA staff has terminated PIV badge creation authority for the parties involved, counseled the other Canandaigua VAMC PIV enrollment Team members, and issued policy communications nationwide to ensure PIV issuance roles and responsibilities are clearly communicated to all PIV enrollment offices. In fact within two weeks of Special Agent Jerry Brown's arrival on May 10, 2010 that had Chief Lawrence H. Schuermann's PIV badge creation authority terminated; he had it reinstated. It was done by circumventing Canandaigua VA Medical Center PIV card computer system servers and using the PIV card computer server of the Bath New York VA Medical Center. This is a clear violation of the intent of the agency and obviously without their knowledge.

One of the counseled employees only had knowledge of the illegal activity. He did not report it for fear of retaliation. He would have had to report it to the very people who were committing and had knowledge of the illegal activity. At that counseling, according to him; he was threatened with the

possibility of legal action brought against him through the U.S. Attorney's Office by the Associate Medical Center Director Margaret Owens.

Furthermore; appropriate administrative corrective remedies are the only actions being taken against those individuals who "acknowledged" violating the PIV policy and procedures, and for those who failed to timely investigate the matter once they were apprised of the allegations.

This brings me to the Report Summary. I disclosed that PIV cards were improperly issued to employees and possibly contractors and visitors. The Medical Center Director and Associate Medical Center Director had prior knowledge of the violations. The Agency report substantiates the allegation.

The Agency report doesn't discuss who were the employees, contractors and visitors that received the improperly issued cards. They are still out there. Have they been recovered, or double checked to see if no unauthorized individuals received them. They haven't been. How can the VA take the stance that system integrity remains a paramount element of the VA's PIV enrollment program, when the system has been compromised and a full and complete accounting has not been undertaken. These PIV cards allow access to Government computer data bases and entry to Government controlled properties and areas. They are also transferable to other VA's.

Special Agent Jerry Brown's initial investigation began on May 11, 2010 and went through May 13, 2010. His investigation, interviews and review of documentation determined that:

1. Employees had participated in activities that were in violation of Federal Information Processing Standards.
2. Assistant Chief Feness and Office Eldridge admitted violating PIV policy and procedures.
3. Associate Director Margaret Owens and Chief of Police Lawrence H. Schuermann denied any knowledge of PIV program violations prior to the May 2010 investigation.
4. Interviews with other Police staff confirmed Chief Schuermann had knowledge of PIV program violations and did indirectly instruct officers to do whatever was required to process and issue PIV cards.

5. Assistant Chief Feness did provide his badge and Personal Identification Number (PIN) to Police Office Eldridge to use while Assistant Chief Feness was on vacation.
6. A follow up investigation revealed that the Director and Associate Director, in fact, were apprised of the allegations regarding the Police Service PIV card issuance violations prior to the fact finding inspection of May 2010, but no investigation into the matter was conducted.

The Summary of Evidence explanation indicates that there was a clear violation in the separation of duties related to PIV Enrollment Operations at the facility. Chief Lawrence H. Schuermann had prior knowledge of the violations, but also participated directly in the violations. According to the documentary evidence provided; the Director, Associate Director, and the Chief of Police had knowledge of the allegations as early as September 21, 2009, but no investigation was conducted. Since the PIV card and PIN provide a digital signature, there are several violations associated with falsification of government documents under 18 U.S.C. §.1001 & 18 U.S.C. § 1028.

Special Agent Jerry Brown referred the case to the Assistant U.S. Attorney for the Western District of New York for guidance on whether the case merited criminal charges involving falsification of government documents. On August 11, 2010 the Assistant U.S. Attorney notified Investigator Brown that the U.S. Attorney declined to pursue criminal charges. The decision was based on the lack of criminal intent and the lack of benefit derived in the unauthorized manufacture of the PIV cards other than being contrary to procedure.

The Sustained or Unsustained Violations explanation indicates that several violations of the Federal Information Processing Standards from Presidential Directive (HSPD-12) dated August 27, 2004 occurred. Assistant Chief of Police Feness provided his PIV card and PIN to Officer Eldridge while he was on Annual Leave, and they both admitted violating policy and procedures. The Associate Director and Chief of Police both stated during their interviews that they had no knowledge of any PIV program violations prior to the investigator's notification on May 10, 2010. Evidence submitted by the SEIU Union Vice President contradicted this position by describing the violations being performed and requested the process of using each other's PIV cards to

cease. The Director, Associate Director and Chief of Police had knowledge of the allegations but did nothing to correct them.

The Actions Taken explanation indicates written counseling actions taken Against lower-level employees of the Police Service, reprimands for the Chief and Assistant Chief of Police. Oral counseling to the Director and a Letter of Counseling issued to the Associate Director. The HSPD-12 Program Office suspended badging privileges of those individuals found to have violated FIPS 201 requirements, and implemented a plan in which all VA PIV Office teams were advised of the requirements to maintain a separation of roles for Sponsors, Registrars, and Issuers.

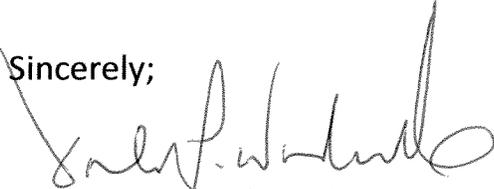
In Conclusion I offer the following observations:

1. The referral to the U.S. Attorney's Office for guidance was premature.
2. The referral was prior to completion of the investigation and further criminal acts have been exposed. Questions were raised about whether or not violations under 18 U.S.C. §.1001 & 18 U.S.C. § 1028 should be prosecuted for falsification of government documents. The U.S. Attorney declined based on the lack of criminal intent and lack of benefit derived. With respect to the U.S. Attorney's Office, the subsequent further investigation showed criminal intent. Furthermore; Performance Awards could be affected and denials of any knowledge of violations, if not supported, saved their jobs.
3. The Associate Director and Chief of Police lied to a Federal Investigator.
4. Chief Schuermann reacquired PIV card badging privileges in violation of Agency intent and orders, contradicting the VA Official position.
5. Fraudulent documents are still in use whether or not it is believed that only procedure violations occurred. There has not been an accounting.
6. The Chief of Police is supposed to be held to a higher standard. If everyone knows he lies, and that even after discovered he would continue to circumvent directives, policies and procedures, then what ethical standard do we hold someone in this position to?

I would respectfully request further considerations be made before closing this Whistleblower Complaint. Employees and Veterans need honesty and integrity in our leadership.

Thank-You Very Much!

Sincerely;



Donald P. Woodworth