



DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON DC 20420

December 9, 2015

The Honorable Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036

RE: OSC File No. DI-15-2454

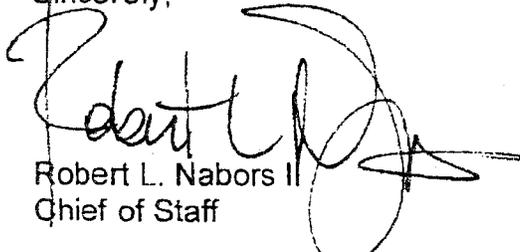
Dear Ms. Lerner:

I am responding to your letter regarding allegations made by a whistleblower at the Miami Department of Veterans Affairs (VA) Health Care System, (hereafter, the Medical Center), Miami, Florida. The whistleblower alleged that Compensated Work Therapy (CWT) patients routinely accessed VA patients' private health information (PHI) without authorization, and that this practice constitutes a violation of law, VA directives, and a substantial and specific danger to public health. The Secretary has delegated to me the authority to sign the enclosed report and take any actions deemed necessary as referenced in 5 United States Code § 1213(d)(5).

The Under Secretary for Health assigned this matter to the Office of the Medical Inspector who assembled a VA team to conduct the investigation. The report does not substantiate the allegation, but makes three recommendations for the Medical Center and one for the Veterans Health Administration. We will send your office follow-up information describing actions that have been taken by the Medical Center and other entities to implement these recommendations.

Thank you for the opportunity to respond.

Sincerely,



Robert L. Nabors II
Chief of Staff

Enclosure

DEPARTMENT OF VETERANS AFFAIRS
Washington, DC

Report to the
Office of Special Counsel
OSC File Number DI-15-2454

Department of Veterans Affairs
Miami Veterans Affairs Healthcare System
Miami, Florida



Report Date: November 30, 2015

TRIM 2015-D-5811

Executive Summary

The Under Secretary for Health (USH) requested that the Office of the Medical Inspector (OMI) assemble and lead a VA team to investigate allegations lodged with the Office of Special Counsel (OSC) concerning the Miami Veterans Affairs (VA) Health Care System, (hereafter, the Medical Center) located in Miami, Florida. Aaron Todd, who consented to the release of his name, alleged that Compensated Work Therapy (CWT) patients are engaging in conduct that may constitute a violation of law, rule or regulation. The VA team conducted a site visit to the Medical Center on September 1–3, 2015.

Specific Allegations of the Whistleblower

- Members of the Miami VAHCS CWT program routinely accessed VA patients' private health information (PHI) without authorization.

VA **substantiated allegations** when the facts and findings supported that the alleged events or actions took place and **did not substantiate allegations** when the facts and findings showed the allegations were unfounded. VA was **not able to substantiate allegations** when the available evidence was not sufficient to support conclusions with reasonable certainty about whether the alleged event or action took place.

After careful review of findings, VA makes the following conclusions and recommendations.

Conclusions

- VA **did not substantiate** that members of Miami VAHCS CWT program routinely accessed VA patients' protected health information (PHI) without authorization.
- VA did find that one CWT patient inappropriately obtained individually-identifiable information by taking telephone messages from Veterans. The Privacy Officer conducted an investigation into this matter and the appropriate action was taken.
- Although CWT participants who were interviewed stated they received only verbal instructions about not being permitted to access Medical Center networked computers or patient information, this information is not stated in the local program handbook provided to CWT patients before they are assigned to an area of work.
- It is not always clear which individuals are CWT patients, as there is no standard way to distinguish CWT patients from other categories of Medical Center employees by looking at their security badges, name tags, or uniforms.
- At times, Prosthetic and Sensory Aids Service (PSAS) area staff members were not informed when a CWT patient had been assigned to the area. However, we

found no evidence that CWT patients had been given inappropriate access as a result.

Recommendations to the Medical Center:

1. Reassess the placement of all CWT patients in the Medical Center to ensure they are assigned to appropriate areas and given duties that do not involve access to individually-identifiable information or PHI.
2. Consider adding a statement to the local Transitional Work Experience Program Handbook that states CWT patients are prohibited from accessing the Medical Center's networked computers or PHI.
3. Whenever a CWT patient is assigned to an area, the supervisor must ensure that all staff members in that area are aware that this individual is not to have access to any PHI or networked computers.

Recommendation for VHA:

4. VHA should survey the field to identify whether there is a best practice for a standardized approach to identify all individuals working in the Medical Centers who are prohibited from accessing networked computers, PHI, or personally identifiable information.

Summary Statement

OMI has developed this report in consultation with other VHA and VA offices to address OSC's concerns that the Medical Center may have violated law, rule or regulation, engaged in gross mismanagement and abuse of authority, or created a substantial and specific danger to public health and safety. In particular, the Office of General Counsel (OGC) has provided a legal review, VHA HR has examined personnel issues to establish accountability, and the Office of Accountability Review (OAR) has reviewed the report and has or will address potential senior leadership accountability. VA found violations of VA and VHA policy in taking telephone messages, which constitutes minimal danger to public health and safety at the Medical Center.

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I. Introduction

The Under Secretary for Health (USH) requested that the Office of the Medical Inspector (OMI) assemble and lead a VA team to investigate allegations lodged with the Office of Special Counsel (OSC) concerning the Miami Veterans Affairs (VA) Health Care System, (hereafter, the Medical Center) located in Miami, Florida. Aaron Todd, who consented to the release of his name, alleged that Compensated Work Therapy (CWT) patients are engaging in conduct that may constitute a violation of law, rule or regulation. The VA team conducted a site visit to the Medical Center on September 1-3, 2015.

II. Facility Profile

A member of the Veterans Integrated Service Network (VISN) 8, the Medical Center serves Veterans in three south Florida counties with an estimated Veteran population of 153,789. The Medical Center provides general medical, surgical, inpatient and outpatient mental health services, and includes an AIDS/HIV center, a Prosthetic and Sensory Aids Service (PSAS), a spinal cord injury rehabilitative center, a Geriatric Research, Education, and Clinical Center, and a Chest Pain Center. It is recognized as a Center of Excellence in Spinal Cord Injury Research and Substance Abuse Treatment. The Medical Center operates 432 beds including a four-story community living center attached to the main facility, as well as two major satellite Outpatient Clinics located in Broward County and Key West, and five Community Based Outpatient Clinics located in Homestead, Key Largo, Pembroke Pines, Hollywood and Deerfield Beach. In addition to serving South Florida, the Medical Center is the tertiary referral facility for the West Palm Beach VA Medical Center and provides open-heart surgery and other specialty services to VA facilities elsewhere in Florida and around the U.S.

The Medical Center is affiliated with the University of Miami Miller School of Medicine, Barry University, Miami-Dade College, and supports training programs for Nursing, Audiology/Speech Pathology, Pharmacy, Social Work, Nutrition & Food Service, and Physical & Occupational Therapy. It also has an extensive research program concentrating in diseases affecting bones and joints, prostate, mental health, HIV, and dental health as well as special studies in infectious diseases, neurological disorders, and renal diseases

III. Specific Allegation of the Whistleblower

- Members of the Miami VAHCS CWT program routinely accessed VA patients' PHI without authorization.

IV. Conduct of the Investigation

The VA team conducting the investigation included [REDACTED] MD, Interim Director, Office of the Medical Inspector (OMI) and [REDACTED], RN, Clinical Program

Manager, OMI; [REDACTED], VHA Privacy Office Manager, and [REDACTED] Acting Chief, Human Resources at the Coatesville VA Medical Center. VA reviewed relevant policies, procedures, standards, reports, memoranda and other documents listed in Attachment A. The Team toured the Prosthetics and Sensory Aids Service (PSAS) area and held entrance and exit briefings with Medical Center leadership.

VA interviewed the whistleblower in person on September 1, 2015, during the site visit. We also interviewed the following Medical Center employees and CWT participants:

- [REDACTED] VISN 8 Prosthetics Representative
- [REDACTED] Chief, PSAS
- [REDACTED] Assistant Chief PSAS/PSAS CWT Supervisor
- [REDACTED] PSAS Supply Technician
- [REDACTED] PSAS Inventory Manager
- [REDACTED] Supervisor Orthotist
- [REDACTED] Orthotist/Prosthetist
- [REDACTED] Orthotist/Prosthetist
- [REDACTED] Logistics
- [REDACTED] Chief of Health Information Management; former Privacy Officer
- [REDACTED] MD, ACOS Mental Health Services
- [REDACTED] Program Manager for Therapeutic and Supportive Employment/CWT Supervisor
- [REDACTED] CWT participant
- [REDACTED] CWT participant
- [REDACTED] CWT participant
- [REDACTED] former CWT participant
- [REDACTED] former CWT participant
- [REDACTED] former Vocational Rehabilitation and Employment employee
- [REDACTED] former Work Study Student
- [REDACTED] former Work Study Student
- [REDACTED] former Work Study Student
- [REDACTED] Health Education Coordinator/CWT Supervisor
- [REDACTED] Inpatient Rehabilitation Supervisor/CWT Supervisor
- [REDACTED] Food & Nutrition Service/CWT Supervisor
- [REDACTED] Information Technology

V. Findings, Conclusions, and Recommendations

Background

Prosthetics and Sensory Aid Services

A prosthesis is an artificial substitute or replacement of a part of the body such as a tooth, eye, a facial bone, a hip, a knee or another joint, the leg, an arm, etc. It is

designed for functional or cosmetic reasons or both. Some prosthetic devices are removable, while others are permanently implanted.¹ Serving approximately half of the Veterans that receive health care services in VHA, PSAS has the mission of providing comprehensive support to optimize health and independence of those Veterans, who obtain many of their prosthetic devices from their local VA Medical Centers.²

PSAS provides prosthetic and orthotic services, sensory aids, medical equipment, and support services for Veterans, making some of the devices onsite in their own laboratory and ordering some through purchasing agents from non-VA sources. The Medical Center's PSAS issued 108,129 devices in fiscal year (FY) 2013 and 100,808 in FY 2014. The whistleblower was assigned to the PSAS laboratory as an orthotic fitter, one who fits, dispenses and adjusts off-the-shelf orthotic devices or braces based on a physician's prescription or order.³

Therapeutic and Rehabilitative Activities, Including CWT Programs

Title 38 U.S. Code § 1718, *Therapeutic and Rehabilitative Activities*, authorizes the provision of therapeutic and rehabilitation services to eligible Veterans. The Therapeutic and Supported Employment Services (TSES) Program is based on a recovery-oriented model and offers a continuum of work restoration services to provide realistic and meaningful vocational opportunities to Veterans recovering from chronic mental illness, chemical dependency, or homelessness to encourage optimal community reintegration and functioning. The scope of TSES includes skill development opportunities both for patients whose primary objective is competitive employment and for those in need of therapeutic pre-employment services to ameliorate the consequences of long-standing mental health problems, either alone or with co-occurring physical illness. The mission of this treatment program is to improve the Veteran's overall quality of life through experiences in which he/she learns new job skills, strengthens successful work habits, and regains a sense of self-esteem and self-worth.⁴

As the name implies, CWT programs are treatment programs in which participating patients are financially compensated for their work. Title 38 U.S.C. § 1718 was amended on December 6, 2003, to expand the clinical authority of CWT to include highly specialized therapeutic employment services (skills training and development services, employment support services and job development and placement services) to Veterans in need of rehabilitation for mental health disorders, including serious mental illness and substance use disorders.⁵ The spectrum of CWT programs includes:

¹ MedicineNet.com (<http://www.medicinenet.com/script/main/art.asp?articlekey=15985>)

² VHA Directive 1048, *Prosthetic and Sensory Aids Service Specific Purpose Funding*. July 30, 2014. (http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=3031)

³ An orthotic fitter properly fits, dispenses and adjusts off-the-shelf (OTS) orthotic devices or braces based on a physician prescription or order. (www.naot.org)

⁴ VHA Handbook 1163.02, *Therapeutic and Supported Employment Services Program*. July 1, 2011.

⁵ Title 38 › Part II › Chapter 17 › Subchapter II › § 1718 38 U.S. Code § 1718 - US Government Publishing Office (<http://www.gpo.gov/fdsys/granule/USCODE-2010-title38/USCODE-2010-title38-partII-chap17-subchapII-sec1718>) VHA Handbook 1163.02, *Therapeutic and Supported Employment Services Program*. July 1, 2011.

- Supported Employment (support for those with severe mental illness),
- Transitional Work Experience (transition into competitive employment), and
- Sheltered Workshops (to teach basic worker traits and habits)⁶

According to VHA Handbook 1160.01, *Uniform Mental Health Service in VAMCs and Clinics*, “each medical center must offer CWT with both Transitional Work Experience and Supported Employment services for Veterans with occupational dysfunctions resulting from their mental health conditions, or who are unsuccessful at obtaining or maintaining stable employment patterns due to mental illnesses or physical impairments co-occurring with mental illness.”⁷

Approximately 35-40 Veterans are enrolled in the CWT program at the Medical Center at any given time. Per title 38 U.S.C. §1718, participants in TSES programs, including CWT, are not considered employees of the United States government for any purpose. Per VHA Handbook 1605.1, *Privacy and Release of Information* “Compensated Work Therapy (CWT) workers are not VHA personnel; they are patients receiving active treatment or therapy.”⁸

Work Study and Vocational Rehabilitation Programs

Two additional benefits offered to Veterans are the Work Study and Vocational Rehabilitation Programs. Work Study gives Veteran students the opportunity for hands-on work experience and a monthly part-time income while they are attending school on a part- or full-time basis as part of the Post-9/11 GI Bill or other VA education benefit program. Public Laws 92-540, § 1685, “Veteran Student Services” establish the criteria for authorizing an additional educational assistance allowance (hereafter referred to as work-study allowance) to eligible Veteran-students pursuing a full-time program of education or training under chapters 31 and 34 of title 38 United States Code.⁹ This Program is also available to any dependent receiving VA education benefits and attending school three-quarter time or more.¹⁰ Work Study students are considered employees for the time during which they are enrolled in school and working for VA. In contrast to CWT patients, Work Study students are allowed to have computer access to patient information for performance of their official job duties and may work in patient care areas as long as they have completed their privacy and security training.¹¹

The Vocational Rehabilitation and Employment program authorized under Chapter 31, Title 38 U.S.C., helps Veterans and service members with service-connected disabilities and employment handicaps prepare for, find, and maintain suitable employment by

⁶ Ibid

⁷ VHA Handbook 1160.01, *Uniform Mental Health Service in VAMCs and Clinics*. September 11, 2008.

⁸ VHA Handbook 1605.1, *Privacy and Release of Information*. May 17, 2006.

⁹ Public Law 92-540-OCT. 24, 1972. (<http://www.gpo.gov/fdsys/pkg/STATUTE-86/pdf/STATUTE-86-Pg1074.pdf>)

¹⁰ VA's Work-Study Program. (<http://www.blogs.va.gov/Vantage/9779/earn-while-you-learn-vas-work-study-program/>)

¹¹ VHA Handbook 1605.02, *Privacy and Release of Information*. May 17, 2006. (http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=56)

providing on-the-job training according to assessed capabilities and goals.¹² The participants in this program are also considered employees, and sign an agreement with the training facility that states, "Each Veteran in training will be...subject to the same rules and regulations governing the conduct of other comparable employees of the Establishment."¹³

Privacy and Information Security

Users who have been granted an access code can retrieve individually-identifiable and protected health information on networked computers throughout the Medical Center. The access code consists of a user identification code coupled with a unique password authenticating the individual.¹⁴ Employees (including Work Study students and Vocational Rehabilitation program participants), trainees, and authorized contractors receive access codes, but Veteran patients participating in CWT are not authorized to have access to information protected by confidentiality statutes, regulations, and policy since they lack employee status.¹⁵

All individuals who use or have access to VA information systems or sensitive information must complete privacy training and sign and adhere to the Rules of Behavior which bind them to the legal and moral responsibility of preventing unauthorized information disclosure. New employees must complete this training within 30 days of hire or before access to patient information is granted, and annually thereafter.¹⁶ Staff members are not allowed to share their access codes or use another employee's codes to access computer systems.¹⁷ Each time a staff member logs on to a computer using his or her unique access code, the access or "sign-on" is electronically logged for tracking. Staff members can log on to more than one computer at the same time (known as multiple sign-ons), but each sign-on is still recorded electronically.

Details of the Whistleblower's Allegations

Mr. Todd alleged that the Medical Center gave computer access to CWT participants assigned to the PSAS, allowing them to access Veterans' individually identifiable health information. He contended that one particular PSAS technician would log on to two computers simultaneously and allowed CWT participants to work on one computer while she worked on the other. Mr. Todd further alleged that CWT patients routinely accessed patients' electronic health records (EHR) and reviewed consults for prosthetic devices. He stated that CWT patients then obtained the device requested in the

¹² U.S. Department of Veterans Affairs Vocational Rehabilitation and Employment. (<http://www.benefits.va.gov/vocrehab/program.asp>)

¹³ Subpart A- Vocational Rehabilitation and Employment Under Chapter 38 U.S.C. Chapter 31; Agreement to Train on the Job Disabled Veterans (Chapter 31, Title 38, U.S. Code) VA Form 28-1904.

¹⁴ VA Handbook 6500, *Information Security Program*. September 19, 2007.

¹⁵ VHA Handbook 1605.1, *Privacy and Release of Information*. May 17, 2006.

¹⁶ *Ibid*

¹⁷ VA Handbook 6500, *Information Security Program*. Appendix G: Department of Veterans Affairs (VA) National Rules of Behavior. September 19, 2007.

consult, and scanned the barcode of the device into the patient's EHR, indicating that the Veteran had received his or her device.

Mr. Todd asserted that one particular CWT patient took phone messages from Veterans that included their names, social security numbers, and phone numbers. He also alleged that his immediate supervisor had authorized this CWT worker to accompany him while performing his duties which included fitting patients for orthotics and accessing patient information on the computer. He named four individuals whom he believed were CWT workers who had been granted computer access or who had accessed PHI after another employee had logged in to a computer and left it unattended.

Finally, Mr. Todd also alleged that work study students were able to access patient information on the computer network, and identified two individuals that he believed had accessed patient information without authorization.

Findings

The Medical Center began assigning CWT patients to PSAS in September 2014. Other CWT program participants were assigned to the Environmental Management Service (housekeeping and grounds maintenance) and Nutrition and Food Service (food preparation). All previous and current CWT patients interviewed stated that prior to starting their assignments, they received verbal instructions about not being allowed to access any Medical Center networked computer or to access any patient information; this instruction was provided by CWT program counselors. However, this prohibition is not discussed in the Transitional Work Experience (TWE) Program Handbook provided to new CWT patients.

Three CWTs were assigned to PSAS from September 30, 2014 through May 1, 2015. According to the Chief, PSAS and other PSAS staff members, CWT patients' duties included receiving and assembling shipments of prosthetic supplies and equipment (such as wheelchairs and walkers), accompanying the inventory manager on deliveries to other areas of the hospital, and conducting inventory of the storage room.

During the period when Mr. Todd was employed at the Medical Center, a variety of workers in several employment categories were assigned to PSAS. These categories included General Schedule (GS) government employees, Work Study students, Vocational Rehabilitation participants, and CWT patients. Our investigation revealed that it was not always clear which individuals belonged to each category, as there is no standard way to distinguish CWT patients from Medical Center employees by looking at their security badges, name tags, or uniforms. For example, Mr. Todd asserted that he had personally observed two CWTs known as "██████" and "██████" accessing patient PHI on computers to carry out their duties, but we determined that "██████" was actually a Work Study student, not a CWT patient. In subsequent correspondence with OMI, Mr. Todd identified another individual named "██████" whom he believed to be a CWT, but

we determined that he was actually a hospital employee participating in the Vocational and Rehabilitation Employment program.

We interviewed several other PSAS employees to assess whether there was widespread confusion about the status of CWT patients. All of them articulated that CWT patients were not employees, were not allowed to use networked computers, and may not be issued access codes. With the exception of Mr. Todd, no PSAS staff member witnessed any instances of a CWT patient using codes to access a computer work station, hearing the technician in question instruct a CWT patient on how to use a computer, using a computer while at work for any purpose, or hearing from others about CWT patients using a computer. We reviewed competency folders and found that all PSAS staff members had completed mandatory annual privacy and information security training.

Some PSAS employees stated that they were not always informed that a newly assigned person was a CWT patient and were not able to discern this by looking at the individual's identification badge. When this occurred, they asked the individual or other staff members what the individual's employment status was prior to assigning any task. They were not aware of any instances in which CWT patients had been assigned inappropriate duties.

We interviewed all three CWT patients (██████ and two others) who had worked in PSAS. All of them indicated their understanding that they were not allowed to have networked computer access or to access any patient information. We reviewed the record of all computer accounts created for PSAS employees since January 2013, and found no evidence that access codes had ever been created for any of the three CWT patients. All three former CWTs stated they had never been given computer access codes, used computers while another employee was logged on to the system, or received instructions to use a computer in the performance of their duties. They also stated they were reminded by other PSAS employees that they were not allowed to use the computers in the area.

The whistleblower identified a PSAS supply technician assigned to the inventory storage area who he believed had allowed CWT participants to gain access to a computer work station using her account. She is responsible for ordering durable medical equipment for inpatients to take home and for dispensing items to outpatients.¹⁸ She completes most of her assigned duties at a work station furthest from the area where patients pick up their items. Prior to the area's reconfiguration, outpatients came directly to the storage area doorway to pick up prosthetic devices. At that time the technician used a computer work station nearest to this doorway to determine what item had been ordered for the patient. She then had the CWT patient obtain the item from the storage area, after which she used the computer again to scan the item's barcode

¹⁸ Durable medical equipment is any equipment that provides therapeutic benefits to patient because of certain medical conditions and/or illnesses. This equipment is ordered or prescribed by a physician, is reusable, not useful to someone who is not sick or injured, and is appropriate for use in the home. This includes nebulizers, catheters, hospital beds, wheelchairs, blood pressure and blood glucose monitoring devices. (<https://www.medicare.gov/coverage/durable-medical-equipment-coverage.html>)

incidents. The Data Breach Core Team determined that the practice of taking telephone messages containing individually-identifiable information was a policy violation but not a data breach as defined by the HIPAA Breach Notification Rule, and that there was no need to offer notification letters or credit monitoring to potentially affected Veterans.²⁰ The Medical Center's Privacy Officer and the CWT Program Manager further concluded that there was a risk that CWT patients could inadvertently be exposed to PHI simply by working in clinical areas such as PSAS. As a result, on May 1st the Medical Center reassigned the last CWT patient from PSAS to another area and decided not to assign CWT patients to PSAS in the future.

Mr. Todd also alleged that Work Study students accessed patient health information without authorization. The duties of Work Study students in PSAS include assisting the PSAS technician and inventory manager with distributing equipment to patients and scanning equipment information into patients' EHRs. They also access information in EHRs to determine what equipment to order and place equipment orders using a computerized purchasing package. As noted above, Work Study students are allowed to have computer access to patient information in the performance of their official job duties related to treatment, payment and health care operations, and may work in patient care areas as long as they have completed their privacy and security training.

In summary, Mr. Todd named five individuals whom he believed were CWT patients who had improperly accessed patient information on networked computers. Two of these individuals were CWT patients who had never been issued access codes nor seen working on a PSAS computer; two were Work Study students who are considered employees and authorized to access patient information in the performance of their official job duties; and the remaining individual was an employee under the auspices of the Vocational Rehabilitation and Employment program. Neither the Work Study students nor the Vocational Rehabilitation employee had been CWT patients at any time.

Conclusions:

- VA **did not substantiate** that members of Miami VAHCS CWT program routinely accessed VA patients' PHI without authorization.
- VA did find that one CWT patient inappropriately obtained individually-identifiable information by taking telephone messages from Veterans. The Privacy Officer conducted an investigation into this matter and the appropriate action was taken.
- Although CWT participants interviewed stated they received only verbal instructions about not being permitted to access Medical Center networked computers or patient

²⁰ The VA-specific definition of the term "data breach" in 38 U.S.C. § 5727(4) is "the loss, theft, or other unauthorized access, other than those incidental to the scope of employment, to data containing sensitive personal information," in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data. (VA Handbook 6500.2, *Management of Data Breaches Involving Sensitive Personal Information*. January 6, 2012. http://www.va.gov/vapubs/viewPublication.asp?Pub_ID=608)

information, this information is not stated in the local program handbook provided to CWT patients before they are assigned to an area of work.

- It is not always clear which individuals are CWT patients, as there is no standard way to distinguish CWT patients from other categories of Medical Center employees by looking at their security badges, name tags, or uniforms.
- At times, PSAS area staff members were not informed when a CWT patient had been assigned to the area. However, we found no evidence that CWT patients had been given inappropriate access as a result.

Recommendations to the Medical Center:

1. Reassess the placement of all CWT patients in the Medical Center to ensure they are assigned to appropriate areas and given duties that do not involve access to individually-identifiable information or PHI.
2. Consider adding a statement to the local Transitional Work Experience Program Handbook that states CWT patients are prohibited from accessing the Medical Center's networked computers or PHI.
3. Whenever a CWT patient is assigned to an area, the supervisor must ensure that all staff members in that area are aware that this individual is not to have access to any PHI or networked computers.

Recommendation for VHA:

4. VHA should survey the field to identify whether there is a best practice for a standardized approach to identify all individuals working in the Medical Centers who are prohibited from accessing networked computers, PHI, or personally identifiable information.

Summary Statement

OMI has developed this report in consultation with other VHA and VA offices to address OSC's concerns that the Medical Center may have violated law, rule or regulation, engaged in gross mismanagement and abuse of authority, or created a substantial and specific danger to public health and safety. In particular, the Office of General Counsel (OGC) has provided a legal review, VHA HR has examined personnel issues to establish accountability, and the Office of Accountability Review (OAR) has reviewed the report and has or will address potential senior leadership accountability. VA found violations of VA and VHA policy in taking telephone messages, which constitutes minimal danger to public health and safety at the Medical Center.

Attachment A

VHA Directive 1048, Prosthetic and Sensory Aid Service Specific Purpose Funding. July 30, 2014.

VHA Handbook 1160.01, Uniform Mental Health Service in VAMCs and Clinics. September 16, 2013.

VHA Handbook, 1163.02, Therapeutic and Supported Employment Services Program. July 1, 2011.

VHA Handbook 1605.1, *Privacy and Release of Information*. May 17, 2006.

VHA Handbook 1605.02, *Minimum Necessary Standard for Protected Health Information*. January 23, 2013.
(http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2858)

VHA Handbook 1907.01, *Health Information Management and Health Records*. August 25, 2006.

VA Handbook 6500, *Risk Management Framework for VA Information Systems-Tier 3 VA Information Security Program*. March 10, 2015.

VA Handbook 6500.2, *Management of Data Breaches Involving Sensitive Personal Information*. January 6, 2012.

Miami VA Healthcare System Policy Memorandum No. 00-55-15, *Privacy Policy*. July 14, 2015.

Miami VA Healthcare System Policy Memorandum No. 136-07-13, *Health Information Management and Documentation*. December 23, 2013.

Miami VA Healthcare System Policy Memorandum No. 116-03-14, *Therapeutic and Supportive Employment Services Policy*. June 9, 2014.

Miami VA Healthcare System Transitional Work Experience (TWE) Program Handbook. 2014-2015.

Computer Logs for multiple sign-ons for PSAS Technician

VBA On-the-Job Training Agreements

PSAS staff training records

Privacy Officer's Report of Findings