

**Sent:** Tuesday, February 09, 2016 12:13 AM  
**To:** lcpltodd1077@gmail.com; Young, Molly  
**Subject:** Miami VAMC Whistleblower Aaron Todd response to OSC File No. DI-15-2454  
**Attachments:** osc 5o pages.pdf

To: OSC Disclosure Unit Attorney Molly Young  
From: Aaron J Todd, Miami VAMC Whistleblower  
Regarding: my comments added to Veterans Affairs Office of Medical Inspector report on OSC File No. DI-15-2454

1.) Regarding pages 7-9: CWT (Compensated Work Therapy) and VR&E (Vocational Rehab and Employment) are both for the purpose of Vocational Rehabilitation.

**A.) U.S. Code: Title 38- Veterans Benefits (Parts 1- 6)**

a.) U.S. Code, Title 38, Part 2 (General Benefits), **Chapter 17** - Hospital, Nursing Home, Domiciliary and Medical Care, Section 17.18 (d)= Therapeutic and Rehabilitative Activities: **CWT Compensated Work Therapy.**

b.) U.S. Code Title 38, Part 3 (Readjustment and Related Benefits), **Chapter 31** Training and Rehab for Veterans with Service-Connected Disabilities: **Voc Rehab.**

c.) B.) U.S. Code Title 38, Part 3 (Readjustment and Related Benefits), **Chapter 34** Veterans' Educational Assistance. Subchapter 4: **Work-Study Allowance Program.**

B.) The **VA work-study allowance** is available to persons training on a full-time or ¾ time basis under the following programs:

- Post-9/11 GI Bill--(38 U.S.C. Chapter 33) (Veterans and transfer-of-entitlement recipients)
- Montgomery GI Bill--Active Duty (38 U.S.C. Chapter **30**)
- REAP Participants
- Montgomery GI Bill--Selected Reserve (10 U.S.C. Chapter 1606)
- Post-Vietnam Era Veterans' Educational Assistance Program (38 U.S.C. Chapter **32**)
- Dependents' Educational Assistance Program (38 U.S.C. Chapter **35**)
- Eligible dependents under 38 U.S.C. Chapter 35 may use work study only while training in a State.
- National Call to Service Participants
- Vocational Rehabilitation & Employment Program -- (38 U.S.C. Chapter **31**)

2.) A veteran can participate under the Work-Study Program under Chapter 31 VocRehab as well as Chapter 34 Work-Study.

<http://www.va.gov/vetapp06/files4/0624081.txt>:

Nowhere in the law is there anything connecting work-study programs to specific rehabilitation, education, or training under Chapter 31. The only connection is that participants

in Chapter 31 rehabilitation are eligible for these work-study jobs. The legislative history of this work-study program clearly shows that the intent of this work-study program is to provide additional income to eligible Chapter 31 recipients while in training, rather than as a part of the rehabilitation training itself. See 1972 U.S.C.C.A.N. 4331.

3.) Neither Work-Study Veteran/participant nor a VocRehab Veteran/participant are NOT considered VHA/VBA/VA Employees regardless if under Chapter 31 or Chapter 34.

A.) Veteran/Student's application for VA Work-Study states on VA Form 22-8690/91/92: "**While performing such services, I (a) will not be considered an employee of the United States for the purposes of laws administered by the Office of Personnel Management, but I will be considered such an employee for the purpose of receiving benefits** under the provisions of chapter 81 of title 5, U.S.C. (Compensation for Work Injuries).

B.) Veterans Administration General Counsel Vet. Aff. Op. Gen. Couns. Prec. 45-90, "**The Congress never intended that the allowances paid to veteran-students under the work-study program (38 U.S.C. § 1685) should be considered wages, nor that such veteran-students should be considered Federal employees** (except for the limited purposes set forth in the statute). Manifestly, the question of a reduction in retirement pay under the Dual Compensation Act is for consideration by the military. And, we agree with the Coast Guard that a binding interpretation of the application of the Dual Compensation provisions to the veterans' work-study program should ultimately be sought from the Comptroller General of the United States."

C.) a.) Payments to VocRehab

Veteran/participants: <https://www.law.cornell.edu/uscode/text/38/3108>

b.) Payments to Work-Study Veteran/participants: <https://www.law.cornell.edu/uscode/text/38/3537>; <https://www.law.cornell.edu/uscode/text/38/3485>

4.) CWT Patients may have mental health issues and work inside VA Medical Centers, Work-Study Veteran/Students work inside VHA/VBA departments similar to their focus of study in College/University, Vocational Rehab Patients work outside of VA Medical Centers.

5.) PRIVACY TRAINING:

6.) Findings, page 10: "The Medical Center began assigning CWT patients to PSAS in September 2014."

My start date within the Miami VAMC PSAS Department as the Orthotic Fitter began March 9th, 2014. When I first started in March 2014 I met my new coworkers in the Prosthetic/Orthotic Lab, then the Purchasing Agents and then the PSAS Stockroom employees. I was introduced to Maribel Monche as the PSAS Supply Tech and [REDACTED] as her assistant. As the Orthotic Fitter it would be normal for me to retrieve supplies from the PSAS stockroom and thus the detailed introductions. I know for a fact that in March 2014 [REDACTED] told me he was with CWT, that he had numerous children, and had been in the PSAS Stockroom for sometime(at least 3 CWT rotations). I know this is true because when I first started they placed me at Maribel's desk and she was transferred to the Purchasing Agents office. This gave me and [REDACTED] a week or more to talk and become acquainted with each other. This setup lasted only long enough for me to be issued a C.O.W. (computer on wheels) and it came with a desk and I moved it closer to the Prosthetic/Orthotic Lab. In September 2014 [REDACTED] started in the PSAS stockroom and CWT [REDACTED] started in late October 2014.

7.) Findings, page 10: "Other CWT program participants were assigned to the EMS (housekeeping and grounds maintenance) and Nutrition and Food Service (Food Prep). A.) CWT program participants had been placed in the PSAS Stockroom for sometime. I know this because BEFORE I received my initial start date on January 17th 2014 as the Orthotic Fitter; in December 2013 I was unemployed and Omar Martinez offered me a CWT job in the PSAS Dept! It was ironic then, and cause for a good conversation when I had to decline the CWT job in the PSAS stockroom because I was hired in the PSAS Orthotic Lab! Omar Martinez cannot deny this. B.) CWT program participants have also been placed in 1.)the Miami VA's US Mail Room and 2.) Miami VAMC warehouse. I know this for a FACT because I was placed in CWT in September 2015, one week after the VA's OMI team lead by Dr Cox inspected and investigated the PSAS Dept and the CWT Dept. A couple weeks after I started in the Miami VA Linen Department through the CWT program, I met a few other CWT participants. They told me they had come from the Mail Room and Warehouse. They both informed me that the week before the Miami VA's CWT Program had been investigated and following the investigation all CWT participants were relocated away from sensitive areas within the hospital, including the Mail Room and Warehouse. Since September 2015 the referred to CWT participant has since been hired at the Miami VA and I will not disclose his name unless requested. I have many recordings on my phone I took while I was a part of the CWT Program at the Miami VAMC and can provide those audio recordings upon request. The Supervisor of the Miami VA Linen Department is named Jeffery Roberts and happens to be the cousin of one of the employees I have an EEOC case against. That is the reason I took recordings within the Linen Department when I personally was a CWT participant.

8.) Findings, page 10: "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."

Since Vocational Rehab participants do not work inside VA Medical Centers, it becomes even easier to distinguish between a CWT Patient and a Work-Study Veteran/Student, and how foolish statement reads. At the least one could simply ask the person their name and title. CWT Patients are given work scrubs to wear versus Work-Study participants that are dressed in their civilian attire or College/University uniform if applicable. It was very easy to tell the difference between [REDACTED], [REDACTED], [REDACTED] and every other CWT patient who all wore CWT issued scrubs, and those Work-Study participants Greg Noland and Ann Jean Mary who dressed in business attire. Furthermore, the CWT patients worked hands-on in the PSAS storage areas full time and the Work-Study participants worked alongside the PSAS Purchasing Agents 25 hours a week, and their labor had to be congruent with their College/University field of study. Also, it should be noted that neither CWT patients or Work-Study participants wore security badges/PIV cards. The CWT patients wore their VA Patient ID card and the the Work-Study participants wore their College/University IDs.

9.) Findings, page 11: "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." The Veterans Affairs OMI investigated the Miami VAMC PSAS Dept and CWT Department in September 2015, yet page10 of this report says the CWT patients were not in the PSAS Dept after May 2015. Why would there be "widespread confusion about the status of CWT patients" 4 months later?? This is one of the numerous unnecessary statements throughout this report that serve to decrease the severity of what was reported and make myself, Aaron Todd appear foolish. I was not confused on anyone's status. CWT participants were the same issue hospital scrubs as Environmental Services employees and Work-Study participants wore their own business attire as they were coming from their College/University.

10.) Findings, page 11: "All three former CWTs stated that 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". First off, the PSAS Purchasing Agents had their own office two hallways away from the PSAS stockroom with their own computers and utilizing a VHA software to purchase items on behalf of the patients. There was only one PSAS employee in the stockroom from March

2014 to November 2014, Maribel Monche. There were only two computers in the PSAS stockroom, one Maribel used and one Eric Miller used. In November 2014 [REDACTED] started and he took Maribel's desk and [REDACTED] remained where he was, at the front door to the PSAS stockroom so he could issue supplies to Veterans and then document it. No PSAS Purchasing Agent would have told [REDACTED], [REDACTED], or [REDACTED] NOT to use a computer, they were busy doing their own work and the only reason I saw them on a regular basis was because I was the Orthotic Fitter who moved supplies for my Prosthetics/Orthotics Lab coworkers. Secondly, I have an audio recording of [REDACTED] stating that he told the Veterans Affairs OMI team and Dr Cox that, "I just told them the truth..and they they did send me to VISTA training." I can supply the audio of [REDACTED] stating he did receive VISTA training if you wish. Also, consider using the FOIA to find out why Derrick McNeal, the former Privacy/FOIA Officer was relieved of his duties at the Miami VAMC. It was most likely due to his PSETS and NSOC reports he made in April 2015.

11.) Findings, page 11: "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". As I previously stated, [REDACTED] told me when he saw me in CWT that at some point he had received VISTA training. Therefore, whether or not Maribel signed on for [REDACTED] or not is not what is important here. What is important that a NON-employee was given access to VISTA and able to access Veteran's PHI. Regarding him being a NON-employee- he did such a good job as a PSAS supply clerk that PSAS Chief Ashley Boateng opened a PSAS supply clerk position for him on [USAJOBS.GOV](http://USAJOBS.GOV) to apply for so he could get regular GS employee pay. I personally offered to help him with his resume or application. It was unfortunate that he did not pass the application phase for the position, even stating that he messed up the KSAs section as well as an interview. He and [REDACTED] currently work in the EMS dept.

12.) Findings, page 12: "Mr Todd alleged that his immediate supervisor had given permission for one CWT worker to accompany him as he carried out his duties in the laboratory, including accessing patients' EHRs." This is another half-truth offered to detract from the effects of the full truthfulness of the situation and. In fact, [REDACTED] was a first floor [REDACTED]. In the fall of 2014 he came to the PSAS Department through a mutual friend of the PSAS Prosthetic/Orthotic Lab Supervisor. He wanted to volunteer his time while inpatient on the SCI floor. He did rotate through the PSAS stockroom prior to coming to the lab. However, his mobile wheelchair hindered his mobility in the PSAS stockroom and within the Lab. I specifically told him he could NOT accompany me when I treated my patients and did ask the Lab Supervisor if he could "shadow" me due to me having CPRS on my computer along with VISTA. He had gotten the approval to help with the PSAS stockroom, Eric and his computer, his previous two weeks. I am not sure why this would have even been documented as if he were a CWT patient? He was never CWT, he came to us from the SCI floor specifically to volunteer and not for any monetary compensation. I would like to address this patient with utmost respect, to whoever reads this, because it was this injured Army Veteran that stood up for me and thanks to him stopped the workplace sexual harassment I had endured since my second week as the PSAS Orthotic Fitter. It was [REDACTED] who reported to Miami VAMC Assistant Director Lisa Simoneau the sexual harassment from Arnold Stewart, the employee he had shadowed his first week within the PSAS Lab. The next week was when he requested to shadow me. I have numerous recordings on my phone from my time as the Orthotic Fitter with the PSAS Department. I can play audio of Arnold Stewart's sexual harassment, [REDACTED] patient volunteer [REDACTED] admitting that he reported him to Ms Simoneau, and numerous other recordings that preserve illegal activities within the Miami VAMC PSAS Department. I can provide those recordings upon request.

I think its TERRIBLE and disgraceful that on page 12, 4th paragraph, this SCI volunteer was falsely recorded as a CWT worker "was accessing individually-identifiable information, which is not a function that CWT patients are authorized to perform." Considering what Derrick McNeal had approved, what Ashley Boateng had approved, and all the other supervisors who misused CWT patients in an effort to keep their department budget's out of the red- and whomever made this report throws a paralyzed volunteer under the bus- no wonder the veterans Affairs is corrupt and the butt of OPM.

13.) Findings, page 13 "Mr Todd also alleged that Work Study students accessed patient health information without authorization." No, I reported that Work-Study Veteran/Students were accessing VHA finances and software used by the PSAS Purchasing Agent staff- probably a greater offense and, accordingly, this additional false statement.

14.) Findings, page 13 "The duty of Work Study students in PSAS include assissting the PSAS techician and inventory manager with distributing equipment to patients and scanning equipment information into patients' EHRS." This also is not true. Work Study Veteran/students Greg and Anna worked directly with PSAS Purchasing Agents, with the computers and the software within the PSAS Purchasing Agents office.

15.) Findings, page 13 "In summary, Mr Todd named 5 individuals whom he believed were CWT patients who had improperly accessed patient information on networked computers." This in NOT what I reported and the following sentences attempt to correct their own false statement. Three were CWT: [REDACTED] and [REDACTED] two were Work-Study students who later became employees and my coworkers (all did a great job) Greg and then Anna. The 5th, [REDACTED], was a [REDACTED] Department patient who just wanted to volunteer.

16.) Conclusions, page 13 "VA did find that one CWT patient inappropriately obtained individually-identifiable information by taking telephone messages" is a joke. [REDACTED] was never CWT, he was a volunteer. To have this half-truth as the only truth at all within the conclusions section is the very reason why the Veterans Affairs will continue in it's downward motion and total corruption and joke within the Federal Agencies.

The Recommendations to the Medical Center on page 14 are perfect. You may wish to include Voc Rehab Participants in the Recommendation Statements if the VA is going to continue to lie and act like some of the CWT patients were Voc Rehab patients!

Please include these comments and statements of mine in response to this Miami VA report by OMI in the final report that will be presented to The President, Congress, staff of the Veterans Affairs, and OSC,

Very Respectfully,

Aaron J Todd

U.S. OFFICE OF  
SPECIAL COUNSEL  
WASHINGTON, D.C.



U.S. OFFICE OF SPECIAL COUNSEL  
1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505  
202-254-3600

W. Mir 15  
DAYS!!

find A YAM MTR

December 22, 2015

REMAILED OUT ->

Mr. Aaron Todd  
3475 SW First Avenue  
Miami, FL 33145

include DENICK MTR  
Paper on Desktop  
- Denick W. T. ...  
You of Audio  
- Files BL THIS

1/14/2016 ->

1/22/2016 !!

Re: OSC File No. DI-15-2454

Dear Mr. Todd:

CUT PATIENT IN CUT WITH TALKING HEARS IN  
POST OFFICE + OPENS IN WARE HOUSE ALL REMOVED  
LETTER FOR VA TALKING RE MY MOVES EVERYONE

Enclosed for your review is a copy of a report of investigation we received from the Department of Veterans Affairs (VA), Miami VA Health Care System (Miami VAHC), Miami, Florida in the above-referenced matter. The report was provided in response to your allegations that Members of the Miami VAHC's Compensated Work Therapy (CWT) program routinely accessed VA patients' private health information (PHI) without authorization.

By law, you may comment on the report. 5 U.S.C. § 1213(e)(1). Your comments will be sent to the agency head, the President, and the appropriate congressional oversight committees in accordance with 5 U.S.C. § 1213(e)(3). With your consent, your comments will also become part of a public file maintained by OSC. 5 U.S.C. § 1219(a)(1). The documents contained in OSC's public file will be placed on OSC's website at [www.osc.gov](http://www.osc.gov). We have enclosed a consent form, which we ask that you sign and return with your comments, if you consent to the inclusion of your comments in OSC's public file.

Your comments should address the evidence, findings and conclusions presented in the agency report. Please do not include any personal information pertaining to subjects, witnesses or other individuals that is unrelated to the case, such as a criminal record or personal relationship. To prevent public disclosure of personally identifiable information (PII), please ensure that your comments and any attachments do not contain any sensitive PII, such as Social Security numbers, home addresses and phone numbers, personal e-mail addresses, dates and places of birth, personal financial information, or patient names.

We emphasize that the agency report is not yet a public document; it is still under review by OSC. We have provided this report for your review and comments. It is not for public release. We ask that you not copy or distribute the report to anyone. When we have completed our review and the Special Counsel has transmitted the agency report to the President and congressional oversight committees, OSC will notify you by letter that the matter has been closed and that the redacted report is publicly available on our website. You may then distribute the redacted report if you would like.

Mr. Aaron Todd  
Page 2

By statute, whistleblowers are provided 15 days from the date they receive the report to submit their comments. We request that you respond within 15 days of your receipt of this letter. If you cannot complete your comments within this time, please call me at (202) 254-3719, so that we may arrange an extension of the response date. If you have any questions or concerns, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Molly Young', with a stylized flourish at the end.

Molly Young  
Attorney, Disclosure Unit

Enclosure



Aaron J Todd

January 13 ·

Please pray for me and my department- God's Will

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Gordon Zernich

Hopefully the worst is over and it will pass ... very, very poor leadership was the problem and brought the worst out of those involved ... I haven't seen it that bad in 15 years

January 24 at 12:36pm · Edited · Unlike · 1



Aaron J Todd

That's about it.. seems like it all worked out. Glad I emailed who I emailed and called who I did..

January 24 at 3:34pm · Like

6:43pm Gordon Zernich

Here is a suggestion for you to try to keep the peace: if it is possible, give you father a tour of the o&p lab ... and during his visit introduce him to Tom and Ashley for a chat. Try to time the visit when both are accessible ... you know Ashley can be hard to find at times. It would be a good thing if he could meet and chat with Donnie too. Usually all these people are accessible early in the morning, after that you take a chance that, especially Ashley, will be inaccessible. Take it for what it is worth ... I believe it is the best way to establish some kind of peace. □

7:29pm Aaron J Todd

Gordon, Here's what I have done to establish peace: First, I overlooked Ramon's perverted requests to me during my initial 3 months, and 8 months later I proved that when I said nothing About him during my meeting with Donnie and Union Rep regarding Arnold and his transfer. You should know this as well, that in my letter to Assistant Director I hail Ramon for saying, "stop making fun of my friend" in my defense. Donnie wanted the investigation to "go all the way to the beginning" and I told him "no" and that me and Ramon eat lunch everyday because we are cool.

Second, when Vicki told me that Tomas made her take out my already approved sick leave times and change them to AWOL- I acted as if I did the form wrong and asked IT for help. When that guy was aware Vicki did it and all three in that area told me to go to HR and report it.. I gave Tomas as much mercy as I did Ramon, and told that HR guy I just wanted my pay and AWOLs dropped but NOT want Tomas OR Vicki to be in any trouble. That man told me what he did was a Felony and I forgave him. Tomas could have been arrested that day, do you realize that?! Did you know at lunch Tomas and Ramon only speak in Spanish with the 4th table guest and I am excluded from the conversation? We all know Byron and Coa(sp?) both are bilingual!

Arnold should've caught on 8 months ago like Ramon did but he refused. His racist words towards me, which is how he first spoke to me when he found out I worked at TGK Corrections weren't even included in my email or a part of this investigation. Remember when I called my big sister on speaker phone so she could share about her mixed child as proof niether I nor my family were bigots? Not to mention his constant bring up my ex girlfriend, offering money to see me in a thong on rollerblades, etc....and he isn't even fired! His female friend with the tattoo on her neck of a cherry told Ramon and me today he is in 2nd floor supply at old patient library...funny his old boss still didnt want him back, lol.

All three of them were way out if line(and illegal) with how they spoke or acted towards me and I have over looked it.. and yet they retaliate against me just because Arnold got transfered back. Fact is, his old boss coulda/shoulda fired him.

The Privacy Officer met with us three today, not sure about Young. I answered "no" to all questions. It would be in Tomas, Ramon, yours and mine's best interest to drop the privacy thing. Numerous employee/patients came in during Clothing Allowance and looked over Ramon's, Young's, and your computers to see what knee brace or orthotic was ordered and later if approved for Clothing Allowance I can open an EEO complaint to Office of Resolution Management because I saw with my eyes the other employee/patients were allowed to look at their own EMR(and I know their names) on Orthotic Lab computers.. However, a temporary light duty

employee gets transferred and Tomas Whistle Blower Retaliates against me with an allegation that happened 2.5 months ago. Fact- Gordon, Ramon could've looked at my chart that Saturday OT out of curiosity and then when he sees the notice he gets worried and claimed it was me- yet I wasn't even there! If you recall, you emailed me about him seeing the notice after I left that Saturday OT. No one saw me on his computer. All MAS can show is that it was accessed on his computer, not by whom. point is, Tomas committed a felony against me and changed my leave time and Ramon asked me to blow him and sit on his lap- things witnessed to- and I did not seek punishment, I gave forgiveness. Now, for them to Whistle Blower Retaliate against me because Arnold's transfer- they bring up something that they have no witness to, purportedly happened 2.5 months ago, they themselves let other employees/patients look at their EMR on the Orthotic Lab computers- and now all those other employees are going to be involved in this too. How sad that they do all these favors for everyone else but me and I am the Orthotic Fitter that sees so many patients each day they get to relax.

So perhaps maybe Tomas and Ramon should consider how to establish the peace.

8:36pm **Gordon Zernich**

Well, you got one thing wrong: I never entertained anyone about the clothing allowance via my computer. In fact I have not ever coached anyone about the clothing allowance.

yeah, I knew Tomas took a very stupid risk about the time keeper thing.

very stupid

2/5, 6:21pm

**Aaron J Todd**

Gordon, it was an honor working with you for the last year. You have become a good friend to me and I will miss you. I have two weeks of paid leave, and Donnie even told me I can contest it and talk w head of HR. Perhaps I can be transferred to the outpatient clinic in Venice, or some where closer to my dad, especially since I submitted a Hardship Transfer Request back in June. I would happily take that coder position or an open Health Tech position but Donnie told me it may not be possible to stay in the Prosthetic/Orthotic Lab to take it one day at a time. Tomas was more clear, he told me he respected me and knows I am very bright, but he doesn't want me in the Lab. I hope it works out I can at least keep my job here and if so I hope we can still interact and talk. I respect you very much and am so grateful(!) for the things you have taught me about orthotics, how to run an orthotic lab, and how to be meek. I am so sorry if I hurt you or 'black guarded' you regarding our phone call and using it the next day. Gordon, it really scared me and at time it was more important than losing your trust- but now that I am leaving I do not want that to stay between us. I was truly believing it all worked out for Arnold, Tomas, and I made sure it didn't go back to Ramon, and so I truly believed this was all behind us and am utterly heart broken to be terminated. Sincerely, Aaron Todd



DEPARTMENT OF VETERANS AFFAIRS  
 MIAMI VETERANS AFFAIRS HEALTHCARE SYSTEM  
 1201 NW 16<sup>TH</sup> STREET  
 MIAMI, FL 33125

**Miami VA**  
**Healthcare System**  
 ★★★★★

MAY 11 2015

In Reply Refer To: 546/002

The Honorable Ileana Ros-Lehtinen  
 Member, House of Representatives  
 4950 SW 72<sup>nd</sup> Avenue, Suite 208  
 Miami, FL 33155

Dear Congresswoman Ros-Lehtinen,

Thank you for your letter on behalf of your constituent Aaron Todd, regarding an information security issue in Prosthetic & Sensory Aids Service (PSAS).

When Mr. Todd first brought this issue to our attention in an email dated April 23, 2015, the Miami VA Healthcare System immediately investigated the use of Compensated Work Therapy program participants (CWTs). The CWT program consists of an array of vocational and rehabilitation services designed to support unemployed and under employed Veterans in developing job readiness skills and making a successful transition into the competitive job market. Population groups included in the program are: Veterans with severe mental illness, Veterans with a history of substance abuse, Veterans with criminal history, and returning Veterans with poly-trauma and TBI related diagnoses.

This situation was taken very seriously and remediation efforts have been initiated. The CWTs were immediately removed from Prosthetic & Sensory Aids Service (PSAS) and we are conducting a review of the use of all CWTs throughout the facility and reinforcing with supervisors the restrictions of the program. The review of PSAS has already been completed and it confirmed that CWTs had limited access to Veteran information including names, last four digits of social security numbers, phone numbers, and in a separate process, addresses. The CWTs did not have computer access and we found no instances where a CWT accessed a computer to see what was issued to Veterans. While the CWTs did write down Veterans' names, last four, phone numbers, and concerns when answering the phone, there was no evidence that any CWT recorded this information for personal use or removed it from the facility. Once VA staff returned the phone call, they destroyed this information. We did not identify any situation where the CWTs would have access to a Veteran's birth date. Taking all of this into consideration and recognizing that any identifiable information needs to be properly safeguarded, the decision was made that CWTs will no longer be assigned to PSAS.

lie

what a foolish lie!

As a result of the PSAS review, the CWT Program Director is meeting with the CWTs who worked in PSAS to discuss the situation and educate them on information security and privacy. Appropriate administrative action was taken with involved supervisors and the VA National Security Operations Center was notified of the situation. We are continuing our review of the entire CWT program.

How what ACCESS did they have limited TO see? Are they blind? From ATIVTS SW everybody

It was confirmed that CWTs had limited access to Veteran info, including names, last four SS #, phone #s.

The CWTs had no computer access and we found no instances where CWTs accessed a computer...

We thank you and Mr. Todd for bringing this situation to our attention and allowing us to correct our CWT program, which provides invaluable benefits to our South Florida Veterans. We are committed to safeguarding all Veteran information while continuing to appropriately provide therapeutic employment programs to assist our Veterans in achieving gainful employment.

Thank you for your interest in our Nation's Veterans.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Russo", with a long horizontal flourish extending to the right.

Paul M. Russo, MHSA, FACHE, RD  
Medical Center Director

E-Filing form printed on 5/18/2015 8:47 PM

**Form12 2/19/2015**

**Status** Processed  
**Original Entry Date** 2/19/2015 2:53 PM  
**Last Modified** 3/20/2015 10:53 AM  
**Case Number** DI-15-2454

**User Information**

Aaron Todd  
lcpl\_todd@hotmail.com

**A summary of the data you entered:**

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**Name of the person seeking OSC action ("Complainant"): prefix**  
Mr.

---

**Name of the person seeking OSC action ("Complainant"): First name**  
Aaron

---

**Name of the person seeking OSC action ("Complainant"): Middle name**  
John

---

**Name of the person seeking OSC action ("Complainant"): Last name**  
Todd

---

**Name of the person seeking OSC action ("Complainant"): Suffix**

---

**Status: Other (For Other, please specify)**

---

**Contact Information: (Home or mailing address): Street**  
3475 SW 1st Ave

---

**Contact Information: (Home or mailing address): Apt No**  
8

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**Contact Information: (Home or mailing address): City**  
Miami

---

**Contact Information: (Home or mailing address): State**  
Florida

---

**Contact Information: (Home or mailing address): Zipcode**  
33145

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**Contact Information: (Home or mailing address): Country**  
UNITED STATES

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**Phone Number: International Number**

False

**Phone Number: Country Code**

00000

**Phone numbers: Home**

**Phone numbers: Home Ext**

**Phone numbers: Work**

**Phone numbers: Work Ext**

**Phone numbers: Cell**

(786) 399-5398

**Phone numbers: Cell Ext**

**Phone numbers: Fax**

**Phone numbers: Fax Ext**

**Phone numbers: Other**

**Phone numbers: Other Ext**

**Email: Email**

lcpl\_todd@hotmail.com

**Title**

Orthotic Fitter

**Series**

GS-0640

**Grade**

GS-06

**Agency: Name**

Veterans Affairs

**Agency: Component Name**

Department of Medicine and Surgery

**Agency: Street**

1201 NW 16th St

**Agency: Apt No**

**Agency: City**

Miami

**Agency: State**  
Florida

**Agency: Zipcode**  
33125

**Agency: Country**  
UNITED STATES

**Outreach: For Other, please describe:**

**Outreach: Date (approximate):**  
12/24/2014

**Are you filling as an attorney of the Complainant?**  
False

**Attorney: prefix**

**Attorney: First name**

**Attorney: Middle name**

**Attorney: Last name**

**Attorney: Suffix**

**Attorney: Street**

**Attorney: Apt No**

**Attorney: City**

**Attorney: State**

**Attorney: Zipcode**

**Attorney: Country**

**Attorney Phone numbers: Work**

**Attorney Phone numbers: Work Ext**

**Attorney Phone numbers: Cell**

**Attorney Phone numbers: Cell Ext**

**Attorney Phone numbers: Fax**

**Attorney Phone numbers: Fax Ext**

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**Attorney Phone numbers: Other**

---

**Attorney Phone numbers: Other Ext**

---

**Attorney Email: Email**

---

**Other sources(s) (please explain):**

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**Please identify the U.S. government department or agency involved in your disclosure**  
VHA, Miami VA Hospital

---

**Please identify the organizational unit of the department or agency involved**  
Prosthetics Sensory Aide Services

---

**Address of the organizational unit**  
1201 NW 16th St, Miami, FL 33125 2nd Floor

---

**Please identify the type of agency wrong doing that you are alleging**  
Violation of law, rule or regulation

---

**Violation of law, rule or regulation (please specify):**

---

**Please identify the type of agency wrong doing that you are alleging**  
Gross mismanagement

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**Please identify the type of agency wrong doing that you are alleging**

---

**Please identify the type of agency wrong doing that you are alleging**

---

**Please identify the type of agency wrong doing that you are alleging**

---

**Please identify the type of agency wrong doing that you are alleging**  
Substantial and specific danger to public safety

---

**Please describe the agency wrong doing that you are disclosing**  
The Miami VA Hospital PSAS Department is allowing CWT patients access to Protected Health Information on other Veteran/patients. The CWT patients are not supposed to have access to VISTA electronic medical record system, yet they are staffing the computers and issuing out patient DME (durable medical equipment). In doing so, these CWT patients are viewing protected patient information: name, birthdate, social security number, and address.

---

**Other Actions You Are Taking On Your Disclosure: Inspector General of department / agency involved**

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**Other Actions You Are Taking On Your Disclosure: Inspector General of department / agency involved Date**

---

**Other Actions You Are Taking On Your Disclosure: Other office of department / agency involved**

---

**Other Actions You Are Taking On Your Disclosure: Other office of department / agency involved**  
Date

---

**Other Actions You Are Taking On Your Disclosure: Other office of department / agency involved**  
Text

---

**Other Actions You Are Taking On Your Disclosure: Department of Justice**

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**Other Actions You Are Taking On Your Disclosure: Department of Justice Date**

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**Other Actions You Are Taking On Your Disclosure: Other Executive Branch / department / agency**

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**Other Actions You Are Taking On Your Disclosure: Other Executive Branch / department / agency**  
Date

---

**Other Actions You Are Taking On Your Disclosure: Other Executive Branch / department / agency**  
Text

---

**Other Actions You Are Taking On Your Disclosure: General Accounting Office (GAO)**

---

**Other Actions You Are Taking On Your Disclosure: General Accounting Office (GAO)**

---

**Other Actions You Are Taking On Your Disclosure: Congress or congressional committee**

---

**Other Actions You Are Taking On Your Disclosure: Congress or congressional committee Date**

---

**Other Actions You Are Taking On Your Disclosure: Congress or congressional committee Text**

---

**Other Actions You Are Taking On Your Disclosure: Press / media (newspaper, television, other)**

---

**Other Actions You Are Taking On Your Disclosure: Press / media (newspaper, television, other)**  
Date

---

**Other Actions You Are Taking On Your Disclosure: Press / media (newspaper, television, other)**  
Text

---

**Other Actions You Are Taking On Your Disclosure: what is the current status of the matter?**  
I informed the PSAS Assistant Chief Donnie Fields, and he did not stop it.

---

**Consent**

I consent to disclosure of my name

---

**Signature**

Aaron1077

---

**Status**

Current Federal Employee

---

**Outreach: How did you first become aware that you could file a complaint with OSC?**

Agency Personnel Office

---

**I know about the information I am disclosing here based on (check all that apply)**  
I have personal and/or direct knowledge of events or records involved

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U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505  
202-254-3600

May 19, 2015

The Honorable Marco Rubio  
C/o David Huff  
201 S. Orange Ave., Ste. 350  
Orlando, FL 32801

Re: OSC File No. MA-15-2435 (Todd)

Dear Senator Rubio:

I am writing in response to your recent correspondence to the U.S. Office of Special Counsel (OSC) concerning Aaron Todd, who filed a complaint of prohibited personnel practices (OSC File No. MA-15-2435) and a whistleblower disclosure (OSC File No. DI-15-2454) with our office on February 19, 2015, and February 23, 2015, respectively, concerning the Department of Veterans Affairs.

We made a preliminary determination to close our inquiry into Mr. Todd's complaint of prohibited personnel practices for the reasons set forth in the attached letter dated April 8, 2015. Ultimately, on April 29, 2015, we reaffirmed our initial determination.

At this time, Mr. Todd's whistleblower disclosure case remains open in our Disclosure Unit. Should he have any questions regarding that case, he may contact Catherine McMullen, chief of the Disclosure Unit, at [emcmullen@osc.gov](mailto:emcmullen@osc.gov).

I hope this information is useful. Thank you for taking the time to contact our office about this matter and for your interest in our work. If we have misunderstood the information provided, or if you have any questions, please do not hesitate to contact us again.

Sincerely,

John J. Lapin  
Assistant to the Special Counsel,  
Congressional Affairs

Enclosure



6  
\* E-mail Jerry S. Todd  
ASK F. Todd (V. C.)

FOR OSC  
SSVF OBTAINING AID  
CUT KICKING TO OUT

CASE  
614

DEPARTMENT OF VETERANS AFFAIRS  
Office of Inspector General  
PO Box 50410  
Washington DC 20091-0410

but his response  
d. Throwing away  
the

In Reply Refer To: 53E/86

October 1, 2015

Mr. Aaron Todd  
3475 SW 1<sup>st</sup> Avenue, #8  
Miami, Florida:33145

Call & follow up!

W. C. Jones  
Relax!

Dear Mr. Todd:

The U.S. Department of Veterans Affairs Office of Inspector General (OIG) Hotline received your complaint dated April 27, 2015. The VA OIG's mission is to detect and prevent fraud, waste, and abuse within VA programs. The Hotline accepts tips or complaints that, on a select basis, result in reviews of:

- VA-related criminal activity.
- Systemic patient safety issues.
- Gross mismanagement.
- Misconduct by senior VA officials.

In order to examine the issues you have raised, it may be necessary for the OIG to take actions that will effectively release your identity as the complainant. Accordingly, we request that you review, complete, and return the enclosed release of identity form to us before we take further action on your complaint. You may return your completed form by fax (202-495-5861), by email ([vaoighotline@va.gov](mailto:vaoighotline@va.gov)), or by mailing it to:

VA OIG Hotline  
P.O. Box 50410  
Washington, DC 20091-0410

Information on the OIG Whistleblower Protection Program is available at: <http://www.va.gov/oig/hotline/whistleblower-protection.asp> Thank you for your interest in the VA OIG Hotline.

Sincerely,

DORA  
Senior Analyst  
Hotline Division

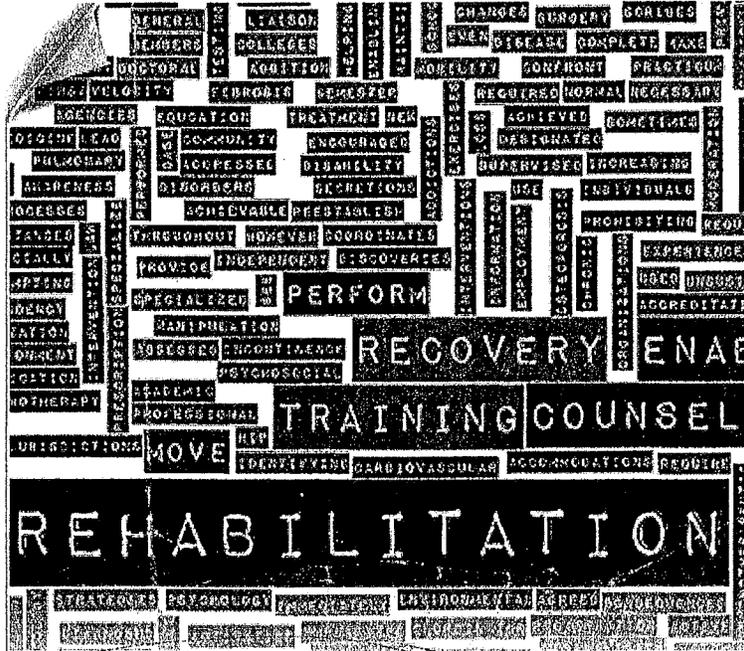
Privacy and HIPAA Focused Training - FY2015

Special Privacy Topics

**Compensated Work Therapy (CWT)**

Compensated work therapy (CWT) program members are considered patients — **NOT EMPLOYEES** — therefore they cannot be given access to Veteran PHI which is maintained by VHA. This includes computer systems and verbal or written access to PHI. Appropriate placement for individuals enrolled in the CWT program should be in positions with no access to PHI, which may include such areas as engineering, Acquisitions Material Management (AMM&S), groundskeeper, canteen/limited food service, and mail room mail sorter.

VISTA



1) CWT in PSAS STOCKROOM using VISTA



2) work study in stock room: UMIAA student John  
3) work study in purchasing agent before hired

05\_004.htm Reviewed/Updated: 08/25/2014 12:02:00

S.S. #S  
Birthdays



Aaron Todd <lcpltodd1077@gmail.com>

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**Fwd: VA OIG disclosures**

1 message

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Aaron Todd <lcpltodd1077@gmail.com>  
To: casework@rubio.senate.gov

Tue, Apr 7, 2015 at 3:05 PM

ca

On Tue, Mar 24, 2015 at 9:44 AM, Aaron Todd <lcpltodd1077@gmail.com> wrote:  
To: House Committee on Veterans Affairs, and Office of Special Counsel  
From: Aaron J Todd (786)399-5398  
Re: OSC Disclosure Unit

To whom it concerns,

I have spoke twice with Paralegal Carla with OSC Disclosure Unit, and I shared with her the screen shots of my 1/14/2015 disclosure to the VA's OIG's online hotline. It is surprising that the Veteran's Affairs own Office of Inspector General did not think the disclosures important enough to investigate. When I called the VA OIG's intake number and requested copies of the disclosures I submitted, was told I was unable to obtain copies.

Therefore, you all should also be aware that the Miami VA Hospital is using Compensated Work Therapy PATIENTS in the Prosthetic Services and Sensory Aids Department to work the stockroom computer's electronic medical records to see what medical devices the patient's were issued and prior to issuance. These patients were nice guys and I worked near them everyday, however, they were patients and not coworkers. Compensated Work Therapy is a program for Veteran/Patients who struggle getting work due to prior convictions or PTSD and learn how to work well with others while being close to the Behavior Health Clinic. We can only hope that they were not writing down all the: names, birth dates, and social security numbers, addresses they saw.

From: **Senator Marco Rubio** (Casework@rubio.senate.gov)  
Sent: Mon 3/02/15 3:51 PM  
To: lcpl\_todd@hotmail.com

Dear Mr. Todd,

I regret to learn of the problem you are experiencing with the U.S. Department of Veterans Affairs. It is disappointing that your concerns have not received the appropriate attention. David on my staff has thoroughly reviewed your correspondence and contacted the U.S. Department of Veterans Affairs to resolve this matter. My office will contact you when we receive additional information regarding your case.

Please bear in mind that some federal agencies require four to six weeks to properly investigate a congressional inquiry. Although I cannot guarantee a particular outcome, I will do my best to ensure you receive a fair and timely response. In the interim, should you have any questions, feel free to call my office at (407) 254-2573 or send an email to [casework@rubio.senate.gov](mailto:casework@rubio.senate.gov).

Thank you for the opportunity to serve you. I am humbled by my responsibilities in the United States Senate, and I will continue to work on behalf of our state of Florida.

Sincerely,

Marco Rubio

United States Senator

**Senator Marco Rubio** (Do\_Not\_Reply@Rubio.senate.gov)

Sent: Thu 2/19/15 8:10pm

To: lcpl\_todd@hotmail.com

Dear Mr. Todd,

Thank you for contacting my office for assistance. Your expressed written consent is required by law. Please complete and sign the Privacy Act Consent Form attached to this email. Federal agencies will not release any information about your case without your signature on this document.

You may forward the completed Privacy Act Consent Form by mail and any attachments you wish to include to my Orlando Regional Office located at 201 South Orange Avenue, Suite 350, Orlando, FL 32801. You may also fax the form to (407) 423-0941. Should you have any questions and would like to speak with a member of my Casework Department, please call (407) 254-2573 or toll-free at (866) 630-7106.

I look forward to hearing from you.

Sincerely,

Marco Rubio  
United States Senator

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Fro **Senator Marco Rubio** (Casework@rubio.senate.gov)

Sen Tue 2/24/15 12:31 AM

To: lcpl\_todd@hotmail.com

Dear Mr. Todd

Thank you for contacting my office to request assistance. Your concerns are very important to me. I have forwarded your letter to the appropriate staff member so that this matter may be thoroughly reviewed and the best course of action determined.

If you have any questions, feel free to call my Orlando Regional Office toll-free in Florida at (866) 630-7106 or send an email to casework@rubio.senate.gov. Thank you for the opportunity to serve you. I am humbled by my responsibilities in the United States Senate, and I will continue to work on behalf of our state of Florida.

Sincerely,

Marco Rubio  
United States Senator

**Senator Marco Rubio** (Do\_Not\_Reply@Rubio.senate.gov)

Sent: Thu 2/12/15 7:36 PM

To: [lcpl\\_todd@hotmail.com](mailto:lcpl_todd@hotmail.com)

Thank you for taking the time to contact me. Your correspondence has been received and I welcome the opportunity to address your concerns. Hearing directly from constituents such as yourself is truly an honor, and your input is much appreciated.

Please look for my response in the near future. In an effort to serve you better, please do not duplicate e-mails into the web-form, as it may serve to delay the response to your concerns. If you need immediate assistance with a federal agency, please call (866) 630-7106, toll-free in Florida. Please do not mail materials that require immediate attention to the Washington DC Office. Due to security screenings, postal mail can take up to four weeks to be delivered and will delay our response to your request.

Sincerely,

U.S. Senator Marco Rubio

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From: **Senator Marco Rubio** (Do\_Not\_Reply@Rubio.senate.gov)

Sent: Fri 2/13/15 11:25 PM

To: [lcpl\\_todd@hotmail.com](mailto:lcpl_todd@hotmail.com)

Dear Mr. Todd,

Thank you for contacting my office for assistance. Your expressed written consent is required by law. Please complete and sign the Privacy Act Consent Form attached to this email. Federal agencies will not release any information about your case without your signature on this document.

You may forward the completed Privacy Act Consent Form by mail and any attachments you wish to include to my Miami Regional Office located at 8669 NW 36<sup>th</sup> Street, Suite 110, Doral, FL 33166. You may also fax the form to (305) 594-4014. Should you have any questions and would like to speak with a member of my Casework Department, please call (305) 418-8553 or toll-free at (866) 630-7106.

I look forward to hearing from you.

Sincerely,

Marco Rubio  
United States Senator



# Office of U.S. Senator Marco Rubio

## Privacy Act Consent Form

*In accordance with the provisions of The Privacy Act of 1974 (Public Law 93-579), your written consent is required so that we may contact a federal agency on your behalf. Since e-mails do not contain a valid signature, they do not fulfill the requirements of the law. All information on this form must be written in English.*

Title: (select one)  Mr.  Ms.  Mrs.  Mr. & Mrs.  Rev.  Doctor  Other: \_\_\_\_\_

Name: Aaron John Todd  
(First Name) (Middle Name) (Last Name)

Address: 3475 SW 1st Ave Apt 8 City: Miami State: \_\_\_\_\_  
(If you are providing an out-of-state address, please attach proof of Florida residency)

Zip code: 33145 Cell: (786)399-5398 Home: S/A Fax: \_\_\_\_\_

E-mail Address: lcpltodd1077@gmail.com Date of Birth (MM/DD/YY): \_\_\_\_\_

If you have contacted another congressional office to assist you, please list the office: House Committee Veterans Affairs

Federal Agency involved with issue: HCVA Oversight and Investigations; Veterans Affairs OIG; Office Special Counsel

**REQUIRED: BRIEFLY STATE YOUR PROBLEM AND THE TYPE OF ASSISTANCE YOU ARE REQUESTING**

Your concerns are very important to me. A member of my staff will contact the appropriate federal agency to help you with your issue. Please remember that a congressional inquiry does not guarantee your desired outcome.

My name is Aaron Todd and I am a service-connected Former US Marine. As an employee in Miami VA Clinic PSAS Dept Prosthetic/Orthotic Lab (1) I was sexually/workplace harassed on a regular basis by two coworkers. My complaints to my immediate supervisor were not heard and harassment not stopped. Violation Federal Law VHA2009-071, No Fear Act, Title VII Civil Rights Act 1964, EEOC, OSC Prohibited Personnel Practices. (2) In October 2014 my approved sick leave for eye surgery at the VA was changed to AWOL and served an AWOL Notice, then threatened with termination if I complained. I did complain and sick leave was fixed by HR and I was paid. I disclosed to VA's OIG and was placed on administrative leave/terminated two weeks later for time and leave issues and not following supervisory instructions! (3) PSAS Dept is using CWT PATIENT to access thousands of Veteran's Protected Health Information (name, bday, SS number, address) and issue stockroom items. Violating VA's HIPPA Privacy Laws and endangering thousands in South Florida with Identity Theft/Fraud during tax season. I have documents and proof.

\*Signature: *Aaron J Todd* Date: 4/7/2015

\*This signature must be from the individual who is 18 years or older and is requesting assistance or has a pending case with a federal agency. Third party signatures, including those of immediate family members, are not acceptable. Federal agencies will not release information without the signed consent of the proper individual. Electronic signatures are not valid.

**Please return by mail, fax or email.**

Mailing address: U.S. Senator Marco Rubio      Fax: (407) 423-0941      Tel: (407) 254-2573  
 201 South Orange Avenue, Suite 350      Email: casework@rubio.senate.gov      Toll-free: (866) 630-7106  
 Orlando, Florida 32801

**\*\*TURN OVER TO COMPLETE THE SECTION ON PAGE 2 WHICH APPLIES TO YOUR CASE\*\***



Aaron Todd <lcpltodd1077@gmail.com>

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**Fwd: OSC Complaint**

1 message

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Aaron Todd <lcpltodd1077@gmail.com>  
To: mmcmmorris@osc.gov

Sat, Feb 28, 2015 at 12:24 AM

----- Forwarded message -----  
From: **Baxter, Kimberley** <kbaxter@osc.gov>  
Date: Tue, Feb 24, 2015 at 3:52 PM  
Subject: RE: OSC Complaint  
To: Aaron Todd <lcpltodd1077@gmail.com>

Dear Mr. Todd,

I will forward your request for a stay to my supervisor, who will include this request in your file. As soon as your complaint is assigned to an examiner, the examiner will review your complaint and your request for a stay, and contact you if they have any questions or if they need additional information. In the meantime, please do not hesitate to contact me if you have any other questions or if you would like to discuss your complaint and/or our review process.

Thank you,

Kimberley Baxter

**From:** Aaron Todd [mailto:lcpltodd1077@gmail.com]  
**Sent:** Tuesday, February 24, 2015 3:48 PM  
**To:** Baxter, Kimberley  
**Subject:** Re: OSC Complaint

Attorney Kimberley,

Currently I am at the library filing for Florida Unemployment or else I would have already called the number you provided. I will also submit my appeal and documents with the Florida D.E.O.(unemployment office) in hopes that they too investigate this matter. Yes, I do have a question- could you PLEASE FILE A STAY against this Adverse Personnel Action so I can go back to work? If you've reviewed the submitted documents you are aware that this is retaliation, and quite frankly, the Assistant Director Lisa Simoneau should have intervened when I informed her this was going to happen in the January 2nd 2015 email that was submitted as a supporting document. Please!

Career Sabataged,

Aaron J Todd

On Tue, Feb 24, 2015 at 2:59 PM, Baxter, Kimberley <kbaxter@osc.gov> wrote:

Thanks for your email. Your complaints are being processed and will be assigned to an examiner. Please let me know if you have any questions.

**From:** Aaron Todd [mailto:lcpltodd1077@gmail.com]

**Sent:** Tuesday, February 24, 2015 2:51 PM

**To:** Baxter, Kimberley

**Subject:** Re: OSC Complaint

Kimberley,

Good afternoon, Ma'am, and I appreciate you contacting me. I believe I did already file a complaint with the OSC. The case numbers are:

**Form11 2/19/2015**

Case Number: MA-15-2435

Created: Feb 19 2015 1:59PM

Last Modified: Feb 19 2015 3:14PM

**Form12 2/19/2015**

Case Number: DI-15-2454

Created: Feb 19 2015 2:53PM

Last Modified: Feb 23 2015 9:30AM

**Form11 2/20/2015**

Case Number: unassigned

Created: Feb 20 2015 1:29PM

Last Modified: Feb 20 2015 2:30PM

Also, I mailed a manilla envelope with 50+ documents supporting my complaint and appeal against retaliation. I spoke with an individual in the mail room yesterday and he assured me that the case numbers would be written on the envelope so all the information is reviewed along with what I filed electronically.

Very respectfully,

Aaron J Todd

This is from Staff Director HCVA Eric Hannel:

[REDACTED]

Aaron,

Just heard from Eric Hannel at the House O & I.

**From:** Hannel, Eric  
**Sent:** Monday, February 16, 2015 7:44 PM  
**To:** 'veteranwarriors@yahoo.com'  
**Subject:** Re: Whistleblower at Miami VAMC

Lauren,

He should speak with Adam Miles and tell Adam I sent him (I've sent a lot of people to Adam and he's good about getting to those I send).

Eric Hannel

Staff Director

House Committee on Veterans Affairs

Subcommittee on Oversight and Investigations

On Tue, Feb 24, 2015 at 9:12 AM, Baxter, Kimberley <kbaxter@osc.gov> wrote:

Dear Mr. Todd,

I am writing in reference to a recent email that was forwarded to me by Adam Miles. Please contact me

directly at 202-[REDACTED] if you would like to discuss filing a complaint with the U.S. Office of Special Counsel.

Thank you,

Kimberley Baxter

Attorney

Complaints Examining Unit



Aaron Todd <lcpltodd1077@gmail.com>

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## RE: Phone Call

1 message

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Hannel, Eric <Eric.Hannel@mail.house.gov>  
To: "lcpltodd1077@gmail.com" <lcpltodd1077@gmail.com>

Tue, Apr 28, 2015 at 5:43 PM

Aaron,

Correct.

To my March 25<sup>th</sup> email where I stated "We are moving forward on this issue and we have asked the OIG to properly investigate and report back to Congress on this issue. To that end, OIG has asked that you complete the attached form to cover confidentiality issues. Please complete the form, sign it, and return it to me by fax or scan/email."

**My response:** I have contacted OIG and provided them the information you sent me. I have asked that they look into the issues you presented, but Congress cannot force them to investigate the many issues you presented. OIG may directly investigate some or all of your issues, they may declare that some or all of your allegations have no merit, or they may defer to your facility and ask the Miami VAMC investigate some or all of issues and report back to OIG. I will not know one way or the other what OIG does until I receive a response (not necessarily a "report"), which depending on the choice they make and when they take action could be weeks or months from now. The OIG receives 30,000 complaints a year and that impacts how quickly they can address any given issue – therefore I have nothing to share with you on what OIG is doing.

From the March comment to today's comment: "If OIG informs me that it is pursuing your issue in some manner, I'll let you know. If I don't hear from the OIG, I'll have nothing to report on the matter." That means just what it says: until I hear from the OIG on your issue, I don't know anything about your issue in relation to OIG's actions.

What we do know, according to you, is that OSC is looking at your issues. In that regard, OSC may resolve some issues long before OIG even begins to look into them which makes OIG's involvement moot. Likewise, OIG and OSC may work together on some issues – but I won't know about that until OIG informs me – which could be weeks or months from now.

You need to focus on what you can do to help your case and bombarding Congress with emails and phone calls is not helping. File with EEOC on the sexual harassment claim and work with OSC (when they need you) to ensure they have the evidence they need. If OIG contacts you, work with them as well. As of today, I

resent your permission to disclose to OIG (the one you faxed us last month). Other than that, be patient – this will not be solved in a day, probably not even in a month given the nature of these types of investigations, but we are pursuing what we can, as we can.

**From:** Aaron Todd [mailto:lcpltodd1077@gmail.com]  
**Sent:** Tuesday, April 28, 2015 5:07 PM  
**To:** Hannel, Eric  
**Subject:** Re: Phone Call

Sir,

Today you wrote, "If OIG informs me that it is pursuing your issue in some manner, I'll let you know. If I don't hear from the OIG, I'll have nothing to report on the matter."

but on March 25th you wrote:

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Aaron,

We are moving forward on this issue and we have asked the OIG to properly investigate and report back to Congress on this issue. To that end, OIG has asked that you complete the attached form to cover confidentiality issues. Please complete the form, sign it, and return it to me by fax or scan/email.

Fax: (202) 225-6392

Thank you.

Eric

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So what happened?? Why no proper investigation and report back to Congress??

Aaron

Aaron

On Tue, Apr 28, 2015 at 4:58 PM, Hannel, Eric <Eric.Hannel@mail.house.gov> wrote:

Aaron,

I just listened to your voice message. As you can imagine I receive numerous phone calls daily and hundreds of emails daily, so it takes me some time to get through all the incoming in order to respond.

In response to your call, I understand you want your job back and you are stressed out. I have informed you of the appropriate course of action related to your concerns and given the evidence you provided, but apparently you refuse to accept it. Even so, I am providing it one more time.

As I have previously told you, the Office of Special Counsel is currently the focal point for proving your allegations of whistleblower retaliation (and the many issues contained in this matter) – not Congress. If the evidence is substantiated, OSC will be the organization seeking your reinstatement as a VA employee– not Congress.

Your claim of sexual harassment is outside our jurisdiction. As I've previously stated, you need to file a complaint with EEOC – not Congress.

Your claim of improper conduct in Compensated Work Therapy is within our jurisdiction and we are pursuing it.

If OIG informs me that it is pursuing your issue in some manner, I'll let you know. If I don't hear from the OIG, I'll have nothing to report on the matter.

You can continue to email anyone/everyone and proclaim that no one is paying attention to your complaint, but such a statement is dishonest. When the folks receiving your complaint ask me about your situation, I will show them the same plan I have repeatedly provided you. Keep in mind, each complaint, broadcast email, and phone call you make that falsely claims you aren't being helped is detracting from my ability to not only address your issues with OIG, OSC and others, but it detracts from the time I have available to address numerous other investigations. To your comment about media, if you feel media is your only recourse I encourage you to contact them. Be certain to direct them to me and through our media office I will provide them copies of all emails from you, along with my repeated emails (including this one) informing you of what we are doing to address issues

within our jurisdiction and what you need to do to address issues outside our jurisdiction, such as file with EEOC.

Eric Hannel, PhD

Marine (ret)

Staff Director

Subcommittee on Oversight and Investigations

House Committee on Veterans' Affairs

---

 smime.p7s  
6K



Aaron Todd <lcpltodd1077@gmail.com>

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**Re: Miami Florida Veterans Affairs Whistleblower- guy who keeps calling and sending emails!!**

1 message

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Aaron Todd <lcpltodd1077@gmail.com>

Tue, Apr 28, 2015 at 6:44 PM

Bcc: stevan.davis@mail.house.gov, john.hodnette@mail.house.gov, jessica.turner@mail.house.gov, Dan.McFaul@mail.house.gov, Noelle.Hubbard@mail.house.gov, Mike.Rellick@mail.house.gov, Spencer.Orenstein@mail.house.gov, James.Zumwalt@mail.house.gov, Joanne.Mullins@mail.house.gov, Sheila.Bowman@mail.house.gov, Bob.Black@mail.house.gov, Melody.Payne@mail.house.gov, Helen.Rigdon@mail.house.gov, "Huda, Ashfaq" <ashfaq.huda@mail.house.gov>, david.tucker@mail.house.gov, harold.rees@mail.house.gov, Brent.Arronte@va.gov, Nick.Dahl@va.gov, linda.halliday@va.gov, ig.hotline@usaid.gov, oig@cftc.gov, hotline@cncsoig.gov, ig\_hotline@dia.mil, Hotline@oig.doc.gov, ighotline@hq.doe.gov, hhstips@oig.hhs.gov, oig.hotline@usdoj.gov, hotline@oig.dol.gov, oighotline@frb.gov, fraudnet@gsaig.gov, oighotline@gao.gov, hotline@oig.lsc.gov, oighotline@nrb.gov, ighotline@nsa.gov, oighotline@opm.gov, martha.orr@va.gov, "robert.mcdonald@va.gov" <robert.mcdonald@va.gov>, "Gibson, Sloan" <sloan.gibson@va.gov>, "Shea, Kristina" <Kristina.Shea@va.gov>, "meghan.serwin@va.gov" <meghan.serwin@va.gov>, MikeDavis3@va.gov, michael.culpepper@va.gov, "amiles@osc.gov" <amiles@osc.gov>, "Baxter, Kimberley" <kbaxter@osc.gov>, "Centanni, Amy" <Amy.Centanni@mail.house.gov>, POGO Report Corruption <reportcorruption@pogo.org>, "veteranwarriors@yahoo.com" <veteranwarriors@yahoo.com>, Aaron Todd <lcpltodd1077@gmail.com>, Jennifer McWilliams <jmcwilliams@bbrg.com>

Sir,

Today you wrote, "If OIG informs me that it is pursuing your issue in some manner, I'll let you know. If I don't hear from the OIG, I'll have nothing to report on the matter."

but on March 25th you wrote:

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Aaron,

We are moving forward on this issue and we have asked the OIG to properly investigate and report back to Congress on this issue. To that end, OIG has asked that you complete the attached form to cover confidentiality issues. Please complete the form, sign it, and return it to me by fax or scan/email.

Fax: (202) 225-6392

Thank you.

Eric

Eric,

**So what happened?? Why no proper OIG investigation and report back to Congress??**

Also, You wrote:

As I have previously told you, the Office of Special Counsel is currently the focal point for proving your allegations of whistleblower retaliation (and the many issues contained in this matter) – not Congress. If the evidence is substantiated, OSC will be the organization seeking your reinstatement as a VA employee– not Congress.

The Subcommittee on Oversight and Investigations was "asked by Congress to properly investigate and report back"-

As you wrote a month ago, So, then- wouldn't "the focal point for proving my allegations of whistleblower retaliation be" the Veterans Affairs OIG's office, as it should have been in the first place when I first whistleblew to them? The OSC is a separate entity that provides unbiased investigation, etc.. and I did not appeal to them until after issued the administrative leave. So then, if the Honorable Jeff Miller's House Committee on Veterans Affairs Subcommittee on Oversight and Investigations is telling the Veteran's Affairs OIG to do a proper investigation- the OSC shouldnt really be needed right?

As for the "If the evidence is substantiated" - **the evidence is blatantly clear:**

1.) email complaints/disclosures I sent from and received to my [aaron.todd@va.gov](mailto:aaron.todd@va.gov) email account to:

A.) Miami VA Hospital IT TechHooman Eghterafi regarding my immediate supervisor illegally changing my leave to AWOL

B.)the Assistant Director Lisa Simoneau of the Miami VA reporting sexual harassment back in November 2014

C.)The Miami VA Detective Ricardo Toro who took my report after I was told my immediate supervisor Tomas Dowell would put a hit contract on me to have me killed before he would get trouble for allowing the sexual harassment and himself changing my time/leave after a blotched VA eye surgery.

D.) emails from the retired former PSAS Assistant Chief Art Wells who had himself disclosed to the PSAS Chief Ashley Boatneg and Assistant Chief Donnie Fields of Ramon Leal and Tomas Dowell's sexual inclinations and in an email to me told me he would call Donnie Fields father, himself the retired PSAS Chief who was also aware- in an effort to persuade Donnie to do the right thing and investigate Tomas and not fire me.

E.) Emails from PSAS Orthotic Lab Gordon Zernich who in emails and on phone disclosed Tomas' motives against me

F.) emails from higher chain of command in Washington DC, including: [robert.mcdonald@va.gov](mailto:robert.mcdonald@va.gov); [sloan.gibson@va.gov](mailto:sloan.gibson@va.gov); [kristina.shae@va.gov](mailto:kristina.shae@va.gov); [meghan.serwin@va.gov](mailto:meghan.serwin@va.gov); [amiles@osc.gov](mailto:amiles@osc.gov); [kbaxter@osc.gov](mailto:kbaxter@osc.gov) etc all before I was even issued an administrative leave form.

2.)

A.) October '14 leave requests for follow ups after a blotched VA eye surgery a Resident(PGY2) performed on my right eye

B.) Those same leave requests changed to AWOLs by Lab Chief Tomas Dowell and his AWOL Notice

C.) Paperwork from the Miami VA Hospital Human Resources changing the AWOLs back to approved sick leave

D.)Proof that he threatened me with termination if I reported him to HR or Payroll

3.) Screen shots of my Veterans Affairs OIG Disclosures that the OIG chose to NOT investigate- the whole reason you then told them they had to do a proper investigation and report back to Congress.

4.) My VA Therapy Progress Notes because I needed psychological therapy to deal with the ongoing sexual harassment at the workplace.

5.) The VA's own Directives on CWT patients NOT being employees and forbidden to be given temp jobs in which they could access other patient's Protected Health Information

6.) My own Annual Review, in which Lab Chief Tomas Dowell even wrote me a letter of recommendation- despite his attempts to fire me

Eric, you write:

"Keep in mind, each complaint, broadcast email, and phone call you make that falsely claims you aren't being helped is detracting from my ability to not only address your issues with OIG, OSC and others, but it detracts from the time I have available to address numerous other investigations"

- but you have not spoken to me on the phone once from January 2015 to this present day; The 3 emails you sent me on March 24/25th are the only times you ever acknowledged me via email. You responded with a "Thank You" last week- to a question I emailed you. As it is, I do not believe you ever did ask the Veterans Affairs OIG to do a "proper Investigation" because the theme of this email I am responding to is that if they contact you then you will let me know but if not, than there is nothing else you can do.. Doesn't Congressman Jeff Miller Chairman of House Committee on Veterans Affairs have any power? I see him on the News each week cleaning up the Veterans Affairs and DEMANDING ACCOUNTABILITY- thats why I am wondering if you even have informed him of the situation at the Miami Veterans Affairs Hospital???

Eric, you write:

" I will provide them (media) copies of all emails from you, along with my repeated emails (including this one) informing you of what we are doing to address issues within our jurisdiction"- Sir, I have already been BCC/CC'ing every single person from the VA, OSC, and staff members of Congress in every single email to/from January to now. I even sent the emails to the Florida Dept of Unemployment Adjudication office.

I spoke with the EEOC OIG on the phone last Friday, and will go to the Miami, Florida EEO Field Office tomorrow.

Mr Eric Hannel, I sincerely appreciate your service to our beloved Corps, your duties on behalf of the VA Oversight and Investigation committee, and this current situation involving the Miami VA retaliation against me. I have attempted to be as thorough and transparent with everyone at the VA both in person and via emails as I possibly could. As for the media- we all know the media will always twist a story to get the most bang. For sake of "policing our own" and protecting the Veterans Affairs from another black eye from the Mothers of America I avoided seeking media coverage of this situation until this week.

Very Respectfully and Always Faithful,

Aaron Todd  
(786)399-5398

## Young, Molly

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**From:** Aaron Todd <lcpltodd1077@gmail.com>  
**Sent:** Wednesday, March 30, 2016 5:43 PM  
**To:** Russo, Paul M. (Miami VA)  
**Cc:** Cox, Gerard R. VHACO; Bowens, Marcia L.; Gibson, Sloan; Young, Molly; Senator Marco Rubio (imailagent); robert.mcdonald@va.gov; clearner@osc.gov  
**Subject:** OSC file # DI-15-2454; VHA 1163.02 No CWT patient considered a VA employee  
**Attachments:** 20160330\_172250.jpg

Mr Russo,

You are stating here that he was on a Work-Study appointment, but then Dr Cox report to the Office of Special Counsel states that he was Vocational Rehab; those are two separate programs..and yet thirdly, I have him on (and he concented) audio stating that he was CWT and that audio was from last year.. Why is there a discrepancy between what you, the Director of the Miami VAMC and Dr Cox, the Director of Office of Medical Inspector wrote in his report? and why are both contradicting what [REDACTED] stated himself about the program he knew he was in, CWT?

Aaron

audio file(s) can be provided upon request.

On Wednesday, March 30, 2016, Russo, Paul M. (Miami VA) <[Paul.Russo@va.gov](mailto:Paul.Russo@va.gov)> wrote:

Hello Mr. Todd,

Mr. [REDACTED] was not a CWT program participant. He was on a work-study appointment that is funded by VBA relative to his academic degree program.

Thank you for your concerns,

Paul M. Russo, MHSA, FACHE, RD

Director

Miami VAHS

305-575-3124

**From:** Aaron Todd [<mailto:lcpltodd1077@gmail.com>]  
**Sent:** Wednesday, March 30, 2016 4:07 PM  
**To:** Cox, Gerard R. VHACO; Bowens, Marcia L.; Gibson, Sloan; Molly Young; Russo, Paul M. (Miami VA)  
**Subject:** [EXTERNAL] OSC file # DI-15-2454; VHA 1163.02 No CWT patient considered a VA employee

To: OSC, VA OMI, VA OIG  
From: Aaron Tod  
Regarding:

Veterans Affairs Office of Medical Inspector report on OSC File No. DI-15-2454

As previously stated in my own notes regarding the report Dr Cox provided to the Office of Special Counsel- within VHA directives 1163 it states clearly in numerous places that NO CWT program or those programs under the umbrella of CWT, those Veteran participants are NOT considered employees. Therefore, [REDACTED] the CWT patient who worked the Miami VAMC's Prosthetic Stockroom for at least a year was never considered an employee and thus was NOT supposed to receive VISTa training or access to VISTa to document the prosthetic/orthotic items he distributed to his fellow Veteran patients at the PSAS stockroom window.

## Young, Molly

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**From:** Aaron Todd <lcpltodd1077@gmail.com>  
**Sent:** Wednesday, March 30, 2016 4:07 PM  
**To:** gerard.cox@va.gov; Marcia L. Bowens; Sloan Gibson; Young, Molly; Paul Russo  
**Subject:** OSC file # DI-15-2454; VHA 1163.02 No CWT patient considered a VA employee  
**Attachments:** QuickMemo+\_2016-03-30-13-59-45.png; QuickMemo+\_2016-03-30-14-00-09.png; QuickMemo+\_2016-03-30-14-00-37.png; QuickMemo+\_2016-03-30-14-02-03.png; QuickMemo+\_2016-03-30-14-04-14.png; QuickMemo+\_2016-03-30-14-06-40.png; QuickMemo+\_2016-03-30-14-07-20.png

To: OSC, VA OMI, VA OIG  
From: Aaron Tod  
Regarding:

Veterans Affairs Office of Medical Inspector report on OSC File No. DI-15-2454

As previously stated in my own notes regarding the report Dr Cox provided to the Office of Special Counsel- within VHA directives 1163 it states clearly in numerous places that NO CWT program or those programs under the umbrella of CWT, those Veteran participants are NOT considered employees. Therefore, Eric Miller, the CWT patient who worked the Miami VAMC's Prosthetic Stockroom for at least a year was never considered an employee and thus was NOT supposed to receive VISTA training or access to VISTA to document the prosthetic/orthotic items he distributed to his fellow Veteran patients at the PSAS stockroom window.

- At times, PSAS area staff members were not informed with one staff member being 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 the staff members in that area are aware that this individual is not to have access to PHI or networked computers.

### Recommendation for VHA

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

### Summary Statement

OIG 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 substantially 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 violations of VA and VHA policy in taking telephone messages, which constitute a minimal danger to public health and safety at the Medical Center.

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goal of TWE is to provide supports and resources needed for a Veteran to successfully transition to and be successful in competitive employment.

(1) CWT TWE participants are screened by vocational rehabilitation staff, and matched to a work assignment for a limited time as deemed clinically appropriate. Work may be provided in the community, or with the local VAMC. Work assignments include any of a wide variety of settings; grounds maintenance, housekeeping, non-sensitive clerical duties, etc.

(2) Program Managers are strongly advised to develop worksites in a variety of settings in the community to balance those on medical center grounds. *NOTE: Community-based settings provide a more realistic work environment and are more likely to lead to competitive community based employment.*

(3) It is important for staff to maintain a close working relationship with the participating organization providing the work setting, and visit the Veterans at the worksite on a weekly basis to provide regular support unless assessment deems more frequent visitation to be necessary.

(4) Payment for work performed is based on an hourly wage. Hourly wages and work performance must be reviewed annually in relation to the prevailing wage rates for similar work in the community and the productivity of Veterans. Base pay is determined by Federal minimum wage laws and the progress toward their treatment objective. In states having a minimum wage which exceeds Federal minimum wage, state minimum wage must be utilized as the base rate for determining hourly pay.

(5) Work opportunities are negotiated by VA vocational rehabilitation clinicians with public or private entities.

(6) Programs must ensure that the following issues are addressed:

(a) Adequate worksite supervision and training are provided.

(b) Reasonable job and worksite accommodations are considered and used.

(c) Existence of a safe and healthy worksite is confirmed.

(d) Appropriate safety training and apparatus are provided.

(e) Physical accessibility is confirmed.

(f) Transportation accessibility.

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213	PM&RS Vocational Assistance
575	MHI Vocational Assistance (Group)
535	MHI Vocational Assistance (Individual)

DSS ID Codes For Non Face to Face Treatment Hours	Department
578	MHI CWT/TWE Non-Face-to-face
569	MHI CWT/SE Non-Face-to-face
228	PM&RS CWT/TWE Non-Face-to-face
224	PM&RS CWT/SE Non-Face-to-face

**g. Transportation**

(1) CWT participants are neither VA employees nor VA volunteers, and must not be allowed to drive government vehicles because they cannot receive coverage under the Federal Torts Claims Act, subjecting them to personal liability for injuries and damages incurred while driving a government vehicle.

(2) Veterans must not be assigned to drive other Veterans to and from a jobsite in a personally owned conveyance (POC) unless they present appropriate and current insurance. Veterans who agree to drive other Veterans to and from a jobsite may do so in a POC upon presentation of appropriate and current liability insurance obtained with funds from a non-VA source.

(3) In the case of CWT/TWE agreements with private businesses, the business may wish to have participants drive their privately owned company vehicles. In such cases the following precautions need be taken:

(a) The Veterans' treatment team must concur and document in Veterans' clinical record that such activities are in keeping with the Veteran's overall rehabilitation goals, and that there are no physical or psychological contraindications.

(b) The Veteran must have a valid state driver's license.

(c) The business (Principal) with which the CWT program has a contractor memorandum of understanding must demonstrate that they maintain adequate insurance which would cover Veterans in the case of accident, injury, or damage to the Principal's goods.

(d) Vehicles owned by the business are safety inspected by the state annually, and are equipped with appropriate first aid and safety equipment.

**h. Injuries**

## THE THERAPEUTIC AND SUPPORTED EMPLOYMENT SERVICES PROGRAM

1. **PURPOSE.** This Veterans Health Administration (VHA) Handbook provides the expectations, procedures, and reporting requirements for Therapeutic and Supported Employment Services (TSES) programs, which include Compensated Work Therapy (CWT) programs (Supported Employment, Transitional Work, Sheltered Workshops, and Veterans Construction Team), Incentive Therapy, and Vocational Assistance.
2. **SUMMARY OF CHANGES.** This is a new VHA Handbook.
3. **RELATED ISSUES.** VHA Handbook 1160.01, VHA Directive 1163, and VHA Handbooks in the 1163 series.
4. **RESPONSIBLE OFFICE.** The Office of Mental Health Services (116) in the Office of Patient Care Services is responsible for the contents of this Handbook. Questions may be referred to the National Mental Health Director for Psychosocial Rehabilitation and Recovery Services (352) 376-1611 ext. 4642.
5. **RESCISSIONS.** None.
5. **RECERTIFICATION.** This VHA Handbook is scheduled for recertification on/or before the last working day of July 2016.

Robert A. Petzel, M.D.  
Under Secretary for Health

**DISTRIBUTION:** E-mailed to the VHA Publications Distribution List 7/7/2011

the continuum of the Veterans Health Administration's (VHA) work restoration services authorized by 38 USC § 171B.

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b. **CWT Sheltered Workshops**. CWT sheltered workshops are an older rehabilitation model still used by some CWT programs that subcontract piece work from the business community to be done in workshops on the grounds of VAMCs under the clinical supervision of CWT staff.

c. **CWT-Transitional Work Experience (TWE)**. TWE is a transitional work program in VAMCs or in the community to enable participants to gain work experience and work hardening while in CWT therapeutic rehabilitation treatment that prepares Veteran-participants for community employment.

d. **CWT-Veterans Construction Team (VCT)**. VCT is a form of transitional work that completes renovation and construction projects for VA and other Federal organizations under the supervision of experienced tradespersons.

e. **CWT-Supported Employment (SE)**. SE is an evidence-based clinical model that helps individuals with serious mental illness or physical impairments co-occurring with mental illnesses engage in competitive employment in the community.

f. **Incentive Therapy (IT)**. IT is a pre-vocational program for Veterans to perform work at VA Medical Centers.

g. **Vocational Assistance**. Vocational Assistance is a set of assessment, guidance, counseling, or other related services that may be offered to groups or individuals. These services are designed to enable Veterans to realize skills, resources, attitudes and expectations needed to prepare for searching for employment, succeeding in the employment interview process, and succeeding in employment.

#### 4. SCOPE

All Veterans in VHA mental health treatment programs who are interested in developing work skills may participate in TSES programs regardless of their psychiatric diagnosis, symptoms, work history, or cognitive impairment. The core philosophy of TSES is that all persons with a disability can work at some level, and that no one should be excluded from this opportunity. Therefore, the scope of TSES includes skill development opportunities both for Veterans for whom the primary objective is competitive employment, and for Veterans in need of therapeutic pre-employment services designed to ameliorate the consequences of long standing mental health problems alone or with co-occurring physical illness.

(8) FOR TITLE 38 U.S.C. 1710, PROGRAM PARTICIPANTS MUST NOT BE HELD OR CONSIDERED AS employees of the United States for any purpose. VA's Office of General Counsel has determined that VHA staff may not subject program participants to criminal background

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investigations, including fingerprint checks as a condition of acceptance for services, even with the Veteran's consent.

(5) Before initiating specialized skills training through CWT, service-connected disabled Veterans need to be referred first to the Veterans Benefits Administration (VBA) and Vocational Rehabilitation and Employment Service (VR&E) to determine whether they meet the criteria for entitlement to benefits under 38 U.S.C. 17, Chapter 31, Training and Rehabilitation for Veterans with Service Connected Disabilities.

**b. Program Organization and Management**

(1) **Clinical and Administrative Oversight.** National oversight is the responsibility of the Office of Mental Health Services in VHA Central Office through TSES. At the field level programs operate under the Mental Health Careline or equivalent organizational structure.

**(2) Management**

(a) The appropriate clinical facility authority needs to appoint a TSES Vocational Program Manager and is responsible for ensuring that staff are designated to implement the policy and procedures for establishing and operating a TSES Program. When there is no dedicated program manager, the supervisor for the CWT employees must assume this responsibility. The individual designated would in most cases be responsible for leave approval and similar supervisory responsibilities.

(b) The Manager serves as a focal point for the organization, implementation, and on-going evaluation for these programs. The program manager is responsible for ensuring that the TSES program adheres to all program operational guidelines and those as mandated in Commission on Accreditation of Rehabilitation Facilities (CARF) and Joint Commission Standards.

(3) **Staffing.** Programs must have adequate vocational and support staff to carry out the mission of the program. Suggested workload panels (staff: Veteran ratios)

(a) Incentive Therapy - 1:40-50;

(b) CWT community-based TWE - 1:30;

(c) CWT Medical Center-based TWE - 1:30-40;

policy for CARE accreditation are mandated to be CARE accredited within 1 year of operation.

j. **Annual Report (RCN 10-0656).** Per title 38 U.S.C. 1718, an Annual Report for Compensated Work Therapy, Incentive Therapy, and Therapeutic Printing Plant Programs (TPP) (RCN 10-0656), must be prepared, providing a description of the scope and achievements of activities carried out (including pertinent data regarding productivity and rates of distribution) during the prior twelve months, and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year. This report must be submitted to TSES by the 15th workday in October for the preceding fiscal year.

## 12. FINANCIAL ASPECTS

a. **Income to Participants.** Payments to participants in IT and CWT TWE are not considered income for VA compensation, pension, or Internal Revenue Service (IRS) purposes. Earnings from CWT SE are not considered income for compensation or pension, but are taxable based on applicable IRS regulations.

b. **Fair Labor Standards Act, Title 29 Code of Federal Regulations (CFR).** Part 525, of the Fair Standards Act, wage guidelines need to be followed in paying participants in all vocational rehabilitation settings. This requires that wage rates paid to workers with disabilities are commensurate with those paid to experienced workers who do not have disabilities that impair their performance. Commensurate wage rates need to be analyzed in the context of the industry, and in the vicinity for essentially the same type, quality, and quantity of work.

c. **CWT Account 36X0160X4.** CWT Account 36X0160X4 is a special, no-year account comprised of funds collected from participating companies and governmental organizations for the value of work performed by Veterans participating in CWT activities. These funds can be utilized only for the purpose of supporting the operation of CWT Workshop, CWT TWE, and CWT/SE services. The CWT program manager has designated responsibility for the use of these funds, subject to any fiscal and acquisition regulations that may apply.

(1) Fiscal service monitors this account, performing monthly reconciliations and annual audits. CWT Account funds are part of each medical center's carry-over funds, and must be carried over between fiscal years as part of the facility's carry-over target.

(2) Authorized CWT Account Utilization for basic operational expenses for CWT TWE and Sheltered Workshop programs include, but are not limited to:

(a) Veteran payments (payroll) in CWT TWE.

(b) Purchase of supplies, equipment, tools, transportation services, information technology, including internet access, and office equipment necessary to operate therapeutic rehabilitation activities in the CWT program.

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