U.S. OFFICE OF SPECIAL COUNSEL
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The Special Counsel

May 7, 2025

The Honorable Douglas A. Collins
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20240

Re: OSC File No. DI-25-001246
Request for Investigation – 5 U.S.C. §1213(c)

Dear Secretary Collins:

I am referring to you for investigation a whistleblower disclosure that the Department of Veterans Affairs, Veterans Health Administration (VHA), Harry S. Truman Memorial Veterans' Hospital in Columbia, Missouri (Hospital), engaged in conduct that may constitute a violation of law, rule, or regulation and a substantial and specific danger to public health or safety. A report of your investigation on these allegations and any related matters is due to the U.S. Office of Special Counsel (OSC) by July 7, 2025.

The whistleblower, [redacted], a Registered Nurse, who consented to the release of [redacted] name, disclosed that Hospital officials are improperly admitting into the Acute Psychiatric Care Unit (APCU), Unit 2B, Veterans who pose a safety risk to other Veterans receiving inpatient psychiatric care, contrary to VA rules. The allegations to be investigated are:

- Current admission practices for Unit 2B contravene the safety measures established under VHA Directive 1160.06 and the APCU Standard Operating Procedure (SOP) BH-6; and
- Any additional or related allegations of wrongdoing discovered during the investigation of the foregoing allegation.

[redacted] explained that following a 2013 fatal patient-on-patient attack in Unit 2B, the Hospital enacted several preventative policies aimed at more carefully weighing a patient's condition and required level of care when making admission decisions. [redacted] alleged the policies were successfully implemented until 2021, when the Hospital began admitting patients who did not meet the criteria for the restrictive level of inpatient care provided by Unit 2B. [redacted] provided several examples of the Hospital admitting to Unit 2B elderly patients with dementia at the same time as younger patients exhibiting violent behaviors, mirroring the conditions that allowed the 2013 fatal attack to occur. [redacted] described an incident in August 2024, when the Hospital admitted a patient with known tendencies toward violence despite [redacted] warnings against admission because the unit had previously admitted a geriatric patient with

dementia. As predicted, an altercation occurred between the two patients, which resulted in the injury of several staff, including [redacted].

Pursuant to VHA Directive 1160.06, Appendix A, 3.c.3.e, older Veterans with frailty or neurocognitive disorders should be kept safe from other Veterans demonstrating agitated behavior in order to prevent injury. This includes placing the Veterans in a separate wing or unit. Further, the Hospital's APCU SOP BH-6, Exclusion Criteria, states that acuity, which is the level of care each patient needs based on the severity of their condition, is "carefully monitored and is considered when making admission decisions, particularly when there are concerns about how an admission may impact the safety of patients and staff on the unit. Additionally, the acute care focus of the APCU contraindicates admissions for patients with chronic mental health concerns or who have corresponding impairment that necessitates more intense forms of supervision and structure, such [as] dementia." [redacted] believes that the Hospital's failure to adhere to these rules are preventing staff from safely managing the patients and the unit.

Pursuant to my authority under 5 U.S.C. § 1213(c), I have concluded that there is a substantial likelihood that the information provided to OSC discloses a violation of law, rule, or regulation and a substantial and specific danger to public health or safety. Accordingly, your agency must conduct an investigation of these matters and produce a report, which must be reviewed and signed by you. Please note that specific allegations and references to specific violations of law, rule, or regulation are not intended to be exclusive. If, in the course of your investigation, you discover additional violations, please include your findings in the report to OSC. Per statutory requirements, I will review the report for sufficiency and reasonableness before sending copies of the report, along with the whistleblower's comments and any comments or recommendations I may have, to the President and congressional oversight committees and making these documents publicly available.

Additional important requirements and guidance on the agency report are included in the attached Appendix, which can also be accessed at https://osc.gov/Documents/Public Files/1213Appendix.pdf. If your investigators have questions regarding the statutory process or the report required under section 1213, please contact Alejandra Dove, Chief, Retaliation and Disclosure Unit at (202) 804-7037 or adove@osc.gov for assistance. I am also available for any questions you may have.

Sincerely,

Charles N. Baldis
Senior Counsel and Designee
Of Acting Special Counsel Jamieson Greer

Enclosure

APPENDIX
AGENCY REPORTS UNDER 5 U.S.C. § 1213(C)

GUIDANCE ON 1213(C) REPORT

- OSC requires that your investigators interview the whistleblower at the beginning of the agency investigation when the whistleblower consents to the disclosure of his or her name.
- OSC will consider extension requests when an agency evidences that it is conducting a good faith investigation that will require more time to complete.
- Should the agency head delegate the authority to review and sign the report, the delegation must be specifically stated and include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5).
- Identify agency employees by position title in the report and attach a key identifying the employees by both name and position. The key identifying employees will be used by OSC in its review and evaluation of the report. OSC will place the report without the employee identification key in its public file.
- Do not include in the report personally identifiable information, such as social security numbers, home addresses and telephone numbers, personal e-mails, dates and places of birth, and personal financial information.
- Include information about actual or projected financial savings as a result of the investigation as well as any policy changes related to the financial savings.
- Reports previously provided to OSC may be reviewed through OSC's public file, which is available here: https://osc.gov/Pages/Resources-PublicFiles.aspx. Please refer to our file number in any correspondence on this matter.

RETALIATION AGAINST WHISTLEBLOWERS

In some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to 5 U.S.C. § 1213(c) also allege retaliation for whistleblowing once the agency is on notice of their allegations. The Special Counsel strongly recommends the agency take all appropriate measures to protect individuals from retaliation and other prohibited personnel practices.

EXCEPTIONS TO PUBLIC FILE REQUIREMENT

OSC will place a copy of the agency report in its public file unless it is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs. 5 U.S.C. § 1219(a).

EVIDENCE OF CRIMINAL CONDUCT

If the agency discovers evidence of a criminal violation during the course of its investigation and refers the evidence to the Attorney General, the agency must notify the Office of Personnel Management and the Office of Management and Budget. 5 U.S.C. § 1213(f). In such cases, the agency must still submit its report to OSC, but OSC must not share the report with the whistleblower or make it publicly available. See 5 U.S.C. §§ 1213(f), 1219(a)(1).