



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

January 20, 2012

The Honorable Carolyn Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036-4505

Re: OSC File No. DI-11-1085

Dear Ms. Lerner:

Enclosed is the Department of Veterans Affairs (VA) report in response to your request of March 24, 2011, to investigate allegations that a VA employee at the Pasco County Vet Center misused VA property for her personal benefit, misused a government vehicle, and misrepresented her credentials. On April 7, 2011, given the alleged criminal violations, we referred these allegations to VA's Office of Inspector General (OIG). On November 22, 2011, VA OIG reported that their investigation found no evidence of criminal wrongdoing. At that time, VA's Readjustment Counseling Service formally conducted an administrative investigation.

The investigation found that most of the allegations were without merit. However, the employee admitted to misusing a government vehicle on one occasion. Accordingly, as explained in the enclosed report, VA management will propose a 30-day suspension in accordance with 31 U.S.C. § 1349(b) and VA Handbook 5021.

I have reviewed the report and concur with its findings and conclusions. Thank you for the opportunity to respond to this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric K. Shinseki".

Eric K. Shinseki

Enclosure

I. SUMMARY OF INFORMATION

The Department of Veterans Affairs (VA) Readjustment Counseling Service (RCS) investigated allegations of misconduct made to the Office of Special Counsel (OSC) by the Complainant, a former Vet Center Office Manager in Pasco County, Florida. The allegations focus on activities at the Pasco County Vet Center in the summer and fall of 2010. The Complainant alleged that an employee at the Vet Center engaged in conduct that may constitute violations of law, rule, or regulation, gross mismanagement, an abuse of authority, or a substantial and specific danger to public health. The Complainant made three general allegations:

1. That the Team Leader at the Pasco County Vet Center misused VA property for her personal benefit in violation of 5 C.F.R. §§ 2635.101, 2635.702, and 2635.704;
2. That the Team Leader at the Pasco County Vet Center employed VA vehicles for her personal use in violation of 31 U.S.C. § 1344 and a Veterans Integrated Service Network (VISN) 8 "Vehicle Fleet Management Program" policy; and
3. That the Team Leader at the Pasco County Vet Center is misrepresenting herself in violation of 18 U.S.C. § 1001 as holding a Licensed Clinical Social Worker certification although she holds only a Master's in Social Work certification.

II. CONDUCT OF THE INVESTIGATION

VA received these allegations on March 25, 2011. Because of the allegations of criminal misconduct, VA referred the allegations to VA's Office of Inspector General (OIG) on April 7, 2011. On November 22, 2011, VA was informed of the results of OIG's investigation, which concluded that the Team Leader did not commit any criminal wrongdoing regarding the allegations of personal use of government property and misrepresentation of her credentials.

On December 7, 2011, in initiating an administrative investigation into the allegations, the RCS Chief Officer assigned the task of investigating this matter to a Human Resource Consultant (Investigator). The Investigator assigned to this matter has more than 20 years of service with the Office of General Counsel and possesses a wealth of experience in Federal personnel matters. The Investigator notified the Regional Manager for the RCS in Florida of the complaint, and of his plans for a December 19-22, 2011, site visit. After holding an entrance briefing with the Regional Manager, the Investigator interviewed staff from the following areas: the Pasco County Vet Center, the Tampa Bay Vet Center, and the Regional Manager Office. The following individuals were interviewed, under oath:

Renee Delgado, Pasco County Team Leader;

Wayne Plummer, Former Acting Regional Manager for the Florida Jurisdiction;

Barry Ray, Office Manager for the Regional Office; and

Jeff Ferrara, Tampa Bay Team Leader.

Leah Davis, the former Pasco County Office Manager/Complainant was contacted by telephone and initially expressed interest in offering a statement but failed to appear for testimony. Subsequent e-mails and telephone messages to the Complainant seeking her input were not returned.

At the conclusion of the site visit, the Investigator held an exit briefing with the 3A Regional Manager at the Clearwater, Florida Vet Center.

III. SUMMARY OF EVIDENCE

Allegation #1: The Complainant alleged that the Team Leader at the Pasco County Vet Center misused VA property for her personal benefit in violation of 5 C.F.R. §§ 2635.101, 2635.702, and 2635.704. Specifically, the Complainant alleged that the Team Leader used a large flat-screen television and a massage chair—both purchased with VA funds for use at the Vet Center—for her personal benefit. The Complainant also alleged that during the pendency of the opening of the Pasco County Vet Center, various supplies and merchandise for the Pasco County Vet Center were stored at the Complainant's home and subsequently at the home of the Team Leader. The Complainant alleged that the Team Leader telephoned her stating that she had installed a large flat-screen television in her home, discarded the box, and then discovered the television was blurry. The Complainant alleged that the flat-screen television and a massage chair now cannot be located.

Findings: The Investigator did not substantiate this allegation. The Pasco County Team Leader and the then-acting Regional Manager testified that the creation of the Pasco County Vet Center has been an administrative struggle. Currently, the Vet Center does not have a permanent location. In the summer of 2010, funds became available for the purchase of merchandise and various supplies intended for the Pasco County Vet Center. The merchandise in question was ordered for the Vet Center, but was initially stored at the Complainant's residence and subsequently at the Team Leader's residence. The then-Acting Regional Manager testified that he instructed the Team Leader not to order the supplies and merchandise if there was no place to store the material. The Team Leader testified that she was instructed to make the purchase and then ran into resistance with regards to an appropriate area to store the material. There is no dispute that, due to storage issues, certain government property was stored at these individuals' homes for a period of time in 2010.

With regards to the specific allegation that the Team Leader used the flat-screen television and massage chair for her personal benefit, the Team Leader

testified that while the television was stored at her home she was concerned that the television was not suited to the proposed space at the Vet Center. She testified that she did open the box containing the television—in the company of the Complainant—to examine the purchase. The Team Leader denied personally using the merchandise at any time and there was no evidence to contradict this testimony. Separate testimony from the then-Acting Regional Manager and from the Tampa Bay Team Leader corroborate that the television and the massage chair are now in storage and are accounted for. The Tampa Bay Team Leader indicated that the material was temporarily stored at the Clearwater Vet Center and that he has specific recall of the material being in the inventory of articles stored at that location. Other than the Complainant's disclosure to OSC, there is no evidence that the Team Leader personally used any merchandise belonging to the Pasco County Vet Center. Accordingly, this allegation is not substantiated.

Allegation #2: The Complainant alleged that the Team Leader at the Pasco County Vet Center employed VA vehicles for her personal use in violation of 31 U.S.C. § 1344 and a VISN 8 "Vehicle Fleet Management Program" policy. The Complainant alleged specifically that the Team Leader was using the VA vehicle—a Ford F-250 truck—for personal reasons such as commuting to and from work, and that she witnessed the Team Leader arriving at work between 6:45 a.m. and 8:00 a.m. using the government truck. Additionally, the Complainant disclosed that the Team Leader used a trailer borrowed by the Complainant to move property to a new residence and that the Team Leader picked up and returned the trailer using the government truck.

Findings: This allegation is substantiated, in part. The Team Leader denied use of the government vehicle for commuting purposes. She also denied using the government truck for moving her residence in November 2010. The then-Acting Regional Manager testified that he personally checked the log book and traffic logs for the vehicle in question and found no evidence of improper use of the vehicle. However, the Team Leader did state that in the summer of 2010, the Complainant asked her to store a trailer on the Team Leader's farm. The Team Leader granted that request. The Team Leader testified that in November 2010, she was moving to a new residence and called the Complainant to remove the trailer from the farm location. According to the Team Leader, the Complainant indicated that she no longer had a truck with a hitch and consequently could not pick up the trailer. The Team Leader testified that she was returning from an assignment in Tampa Bay using the government truck and decided to return the trailer to the Complainant because the Complainant's home was between the Tampa Bay site and the Pasco County Vet Center. In short, the Team Leader testified that she used a government vehicle to transport the trailer as a favor to the Complainant.

The motivation for the use of the government vehicle in this instance is irrelevant. The undisputed fact—a fact that is admitted by the Team Leader—is that she used a government truck to transport a privately owned trailer to the

Complainant's home in November of 2010. The Team Leader was not authorized to use the government vehicle for that purpose. This portion of the Complainant's allegation is, therefore, substantiated.

Allegation #3: The Complaint alleged that the Team Leader at the Pasco County Vet Center is misrepresenting herself in violation of 18 U.S.C. § 1001 as holding a Licensed Clinical Social Worker certification although she holds only a Master's in Social Work certification.

Findings: This allegation is not substantiated. The Team Leader testified that during the summer of 2010, business cards for all office personnel were ordered. Unfortunately, the original version of the Team Leader's business card mistakenly indicated that she held a Licensed Clinical Social Worker certification. She testified that upon notice of this error she immediately notified the then-Acting Regional Manager. She was advised by her supervisor to collect all the business cards with misinformation and to reorder cards with the correct certification. This was done immediately by the Team Leader. The Team Leader's statement is corroborated by the testimony offered by the then-Acting Regional Manager. There is no evidence that the Team Leader actually distributed the cards with the incorrect information regarding her credentials. This was simply a clerical error that was quickly resolved. Regarding the additional documents provided to OSC that allegedly state that the Team Leader earned a Licensed Clinical Social Worker (a Vet Center briefing package and a Vet Center crisis management plan), the Investigator was never provided a copy of those documents and found credible the Team Leader's testimony that she never misrepresented her credentials.

The issue regarding the misinformation on these business cards was previously raised by the Human Resources Department at the Tampa VA Medical Center after an anonymous letter was sent to the facility suggesting that the Pasco County Vet Center Team Leader was misrepresenting her credentials. Affixed to the anonymous letter was a business card containing incorrect licensure information for the Team Leader. The Team Leader testified that the cards were ordered by the previous Office Manager/Complainant. The Team Leader testified that it was only she and the Office Manager/Complainant that had access to the misprinted business cards. In any case, the local human resources department administratively resolved this matter without a finding of misconduct on the part of the Team Leader.

IV. SUSTAINED VIOLATIONS

The Investigator found that a government vehicle was used for personal use by the Pasco Team Leader in violation of 31 U.S.C. § 1344.

V. ACTIONS TAKEN AND RECOMMENDED

In accordance with 31 U.S.C. § 1349(b) and VA Handbook 5021, Management will propose a 30-day suspension for the Pasco Team Leader for misuse of a government vehicle.