



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

May 30, 2024

The Honorable Denis R. McDonough
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Re: OSC File No. DI-24-000869
Referral for Investigation—5 U.S.C. § 1213(c), Part II

Dear Secretary McDonough:

I am referring to you for investigation a whistleblower disclosure that employees of the Department of Veterans Affairs (VA), Eastern Kansas Health Care System, Dwight D. Eisenhower VA Medical Center (Eisenhower VAMC), Leavenworth, Kansas engaged in conduct that may constitute a violation of law, rule, or regulation. A report of your investigation of these allegations and any related matters is due to the Office of Special Counsel (OSC) on July 29, 2024.

[REDACTED], a police officer at Eisenhower VAMC who consented to the release of his name, alleged that the VA police radio system at Eisenhower VAMC does not meet the requirements of VA Handbook 0730, *Security and Law Enforcement*.¹ He alleged the failure to meet this agency requirement has an adverse impact on police officers' ability to communicate and coordinate.

The allegation to be investigated follows:

- The Eisenhower VAMC radio system includes dead zones, in which police radios do not function, and thus does not comply with VA Handbook 0730, section 5(j); and
- Any related allegations of wrongdoing discovered during the investigation of the foregoing allegations.

[REDACTED] alleged that radios used by VA police at the facility are not operable in the many dead zones on the Eisenhower VAMC campus. He stated that problems related to the radios date from at least 2021. He further explained that the campus is approximately 200-300 acres, and the VA Handbook 0730 requires radios that can operate throughout the facility. The dead zones reportedly include areas in the Police Department, rooms in the medical center, the rehabilitation domiciliary, and portions of the National Cemetery. These areas prevent communication and coordination among officers, meaning that they are unable to request backup or assistance, as necessary. While the agency

¹ [REDACTED] reported that this allegation is under investigation by the Office of Inspector General.

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has acknowledged the deficiencies in the communication systems due to the radios, the problem persists without a timetable for resolution.

Pursuant to my authority under 5 U.S.C. § 1213, I have concluded that there is a substantial likelihood that the information provided to OSC discloses a violation of law, rule, or regulation. Please note that specific allegations and references to 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 on these additional matters in the report to OSC. As previously noted, your agency must conduct an investigation of these matters and produce a report, which must be reviewed and signed by you. Per statutory requirements, I will review the report for sufficiency and reasonableness before sending copies of the agency 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/Pages/DOW.aspx>. If your investigators have questions regarding the statutory process or the report required under 5 U.S.C. § 1213, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 804-7088 or cmcmullen@osc.gov for assistance. I am also available for any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Hampton Dellinger". The signature is written in a cursive, flowing style.

Hampton Dellinger
Special Counsel

Enclosure

cc: The Honorable Michael J. Missal, Inspector General

APPENDIX

AGENCY REPORTS UNDER 5 U.S.C. § 1213

GUIDANCE ON 1213 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 in 60-day increments when an agency evidences that it is conducting a good faith investigation that will require more time to complete.
- 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 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).