

Department of Veterans Affairs Office of Inspector General

Administrative Investigation Failure to Properly Supervise, Misuse of Official Time and Resources, and Prohibited Personnel Practice VA Center for Innovation VA Central Office

Redacted



DEPARTMENT OF VETERANS AFFAIRS Office of Inspector General Washington, DC 20420

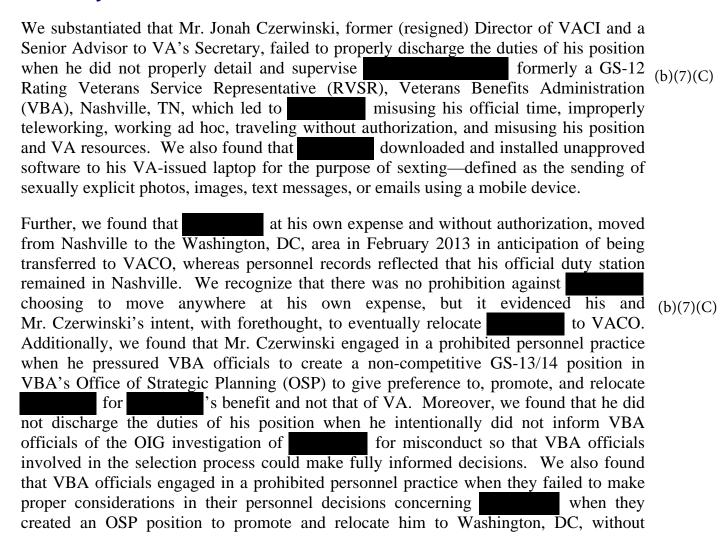
TO: VA Chief of Staff

SUBJECT: Administrative Investigation, Failure to Properly Supervise, Misuse of

Official Time and Resources, and Prohibited Personnel Practice, VA Center for Innovation (VACI), VA Central Office (VACO) (2013-

01488-IQ-0010)

Summary



question and solely due to Mr. Czerwinski's request. We did not make any recommendations for administrative actions against Mr. Czerwinski, as he resigned his VA position effective September 30, 2013. We also did not make any recommendations for administrative action against Mr. James Alan Bozeman, VBA Program Director, Veterans Benefits Management System, as he resigned his VA position January 13, 2014. was promoted into a GS-13 position with a duty station in Washington, DC, on July14, 2013, about 5 months after his move to the Washington, DC, area.

(b)(7)(C)

We further found that Nashville supervisors failed to properly document VACI detail or properly supervise which resulted in his unauthorized travel, a misuse of VA contractor-issued travel card, and misuse of about \$31,000 in travel funds. In addition, we determined that absence from his Nashville RVSR duties while improperly detailed for a prolonged period of time resulted in an undetermined number of veterans' claims not being reviewed, as required by his position of record. We recognize a need to, at times, detail VA employees; however, detailing employees must be properly documented and comply with VA policy.

Introduction

The VA Office of Inspector General Administrative Investigations Division investigated allegations that misused his official time and VA resources to frequently travel to Washington, DC, for over a year, and rather than report to his temporary VACO duty station, he teleworked from a hotel room. In addition, Mr. Czerwinski was allegedly not always aware of location, that he teleworked from a hotel room, and he failed to take the appropriate action to correct this misconduct. To assess these allegations, we interviewed Mr. Czerwinski, Mr. Bozeman, and other VA employees. We reviewed time and attendance, email, and travel records, travel card activity reports, computer logs, and other relevant documents. We also reviewed Federal laws, regulations, and VA policy.

Background

A February 20, 2013, news release from VA's Office of Public and Intergovernmental Affairs reflected that Secretary Shinseki created VACI based on the success of its predecessor, VA Innovation Initiative (VAi2), launched in 2010. The VACI mission was to transform VA into a 21st century people-centric, results-driven, and forward-looking organization. A VA intranet website reflected that VACI looked to private sector startup companies, industry leaders, academic and research facilities, and VA employees for input. Mr. Czerwinski told us that he headed VACI, and that he staffed it with people from across VA.

Personnel records reflected that VA's Secretary appointed Mr. Czerwinski as a Special Assistant to the Office of the Deputy Secretary, effective February 23, 2009, using a non-competitive Schedule C Appointing Authority. The Office of Personnel Management

(OPM) website (December 31, 2013) reflected that OPM may grant hiring authority under Schedule C on a case-by-case basis in situations for which political appointments are appropriate. Generally, the authority to fill a Schedule C position is revoked when the incumbent leaves and agencies need specific approval from OPM to establish or reestablish the position. In authorizing Mr. Czerwinski's pay rate above the minimum, VA's former Chief of Staff stated that Mr. Czerwinski brought extensive experience in leading people, managing resources, advising top management officials, and strategic communications and that an advanced rate was necessary to provide a pay rate commensurate with the knowledge, skills, and experience Mr. Czerwinski possessed to perform the duties of his position.

told us that he began his VA career at the VA Regional Office (VARO), Nashville, TN, in May 2007 and that he was detailed to VAi2 (referred to as VACI hereafter in this report) in May 2011. However, personnel records reflected that his RVSR title and position description, as well as the location of his duty station, did not change. The VACI website identified as a project manager on a special detail from VBA, and his role was to move industry pilot projects through the VACI process. This website also reflected that prior to his detail to VACI, was a Nashville RVSR determining disability compensation levels of claims submitted by Veterans exposed to Agent Orange.

RVSR position description stated, "The Rating VSR analyzes claims, applies VA's Schedule for Rating Disabilities (Rating Schedule), and prepares rating decisions informing the VSR [Veterans Service Representative] and/or claimant of the decision, the bases, and the reason for it." performance standards reflected that an RVSR was rated on multiple elements, one of which was productivity. As an RVSR, was expected to process a minimum cumulative average number of 3.5 weighted cases per day, but due to improper and undocumented detail to VACI, he did not review veterans' claims as depicted in his position description, performance plan, or annual appraisal. In the alternative, he did not devote maximum effort during the detail to developing new solutions to the backlog problem.

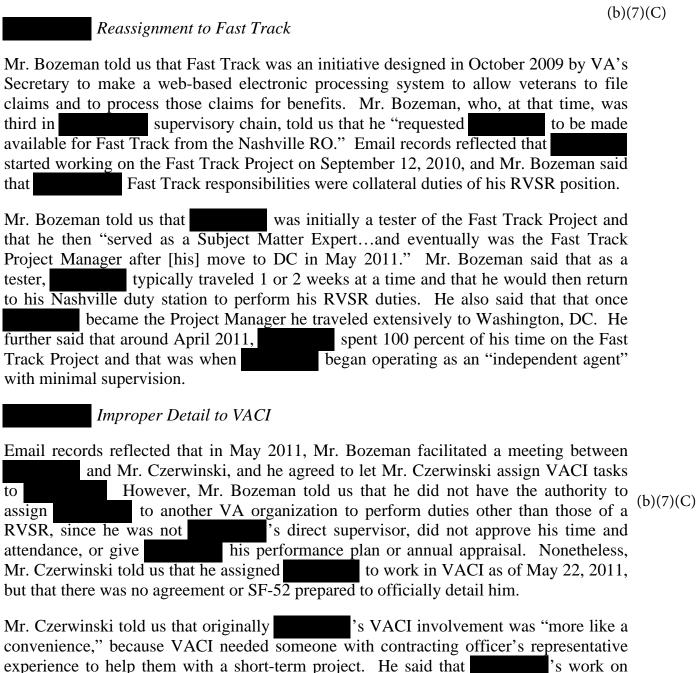
Results (b)(7)(C)

Issue 1: Whether Was Improperly Detailed to VACI

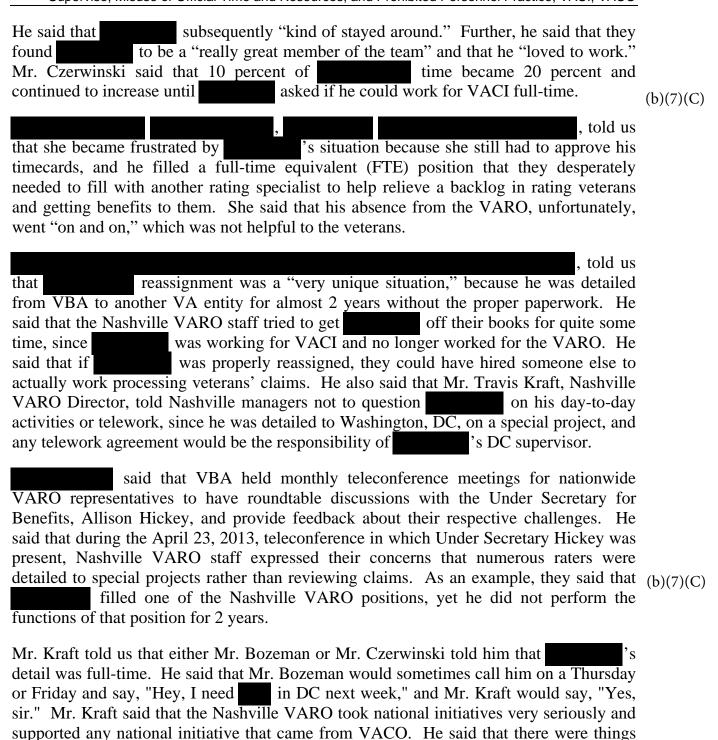
VA policy states that a formal detail (within VA for 30 days or longer) requires the approval at the service/division chief level or higher. It also states that formal details will be initiated by a Standard Form (SF)-52, Request for Personnel Action, forwarded to the Human Resources (HR) Management Office for action, and another SF-52 will be necessary to extend or to terminate the detail. Employees may be detailed, in 120-day increments, to the same or lower grade positions for up to 1 year. It states that details of 120 days to higher-graded positions may be extended for an additional 120 days (maximum period of 240 days). If a detail of more than 120 days is made to a higher-

(b)(7)(C)

graded position, or to a position with known promotion potential, it must be made under competitive promotion procedures. VA Handbook 5005, Part III, Chapter 2, Para. 13 (April 15, 2002). The Director of VBA's HR Office issued a memorandum, dated November 9, 2009, to all Regional Offices, Program, and Staff Office Directors, providing guidance on detailing VBA employees. It stated that formal details were to be initiated by an SF-52, the requesting office was to complete the SF-52 and forward it to their servicing HR center for action, and another SF-52 was needed to extend or terminate the detail.



Fast Track did not consume all of his official time, so it was "an opportunity" for VACI.



that they "obviously could have done much better" but that "the folks here, to include myself, were trying to support a national initiative and maybe had too much trust that we

were doing what we thought we were supposed to be doing."

VA Office of Inspector General

Conclusion

A formal detail must be initiated, extended, or terminated by the requesting office submitting an SF-52 to HR for action, and an employee may be detailed in 120-day increments to the same grade for no more than 1 year. Mr. Czerwinski not only failed to submit the appropriate SF-52s to initiate and extend a formal detail, but he kept in that position for more than 2 years, contrary to VA policy. Further, had Mr. Czerwinski properly reassigned to VACI, the VARO could have filled the position with another employee to process veterans' claims to help alleviate the backlog. Although the Nashville managers had some responsibility in this matter, they wanted to be supportive of national initiatives, and they expressed their concerns of not only 's long detail away from his duty station but of other raters being detailed to "special projects" rather than reviewing veterans' claims as required by their positions.

(b)(7)(C)

Recommendation 1. We recommend that the VA Chief of Staff ensure that VBA conducts a review of all RVSRs to ensure that any not performing the functions of their position are either properly detailed or returned to their RVSR duties.

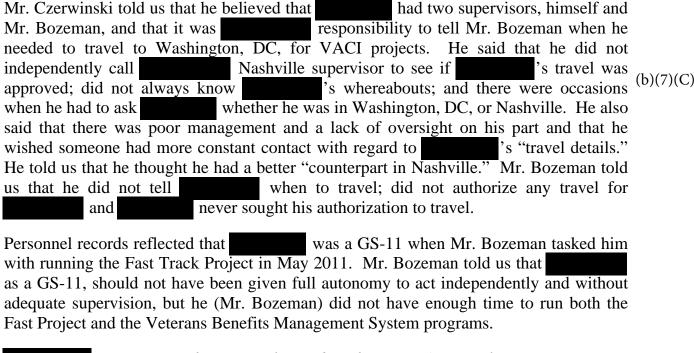
Issue 2: Whether VA Managers Failed to Properly Supervise

Unauthorized Travel

VA policy states that employees traveling on official business will have approval from direct-line supervisors and, except in emergencies, that approving officials will authorize travel for employees under their jurisdiction in advance of the travel and determine if the travel is essential for the purpose of carrying out the mission of VA. It further states that approving officials will ensure all travel is performed in the most economical and effective manner; examine expense vouchers to ensure the justification, supporting documentation, and receipts are attached; travel expenses for which reimbursement is claimed was performed as authorized; and split-pay was used to pay for all authorized expenses made to the travel card. It states that expense reports will be examined and approved by the approving official having knowledge of the facts involved in the travel and that approval signifies that the travel and expenses are in order and administratively approved for payment. Procedures will be established by each authorizing official to ensure that reimbursement of expenses is properly administered and controlled to prevent abuse and that an appropriate review of the justification for travel on an actual subsistence expense basis will be made. Expenses claimed by an employee will be reviewed by the authorizing official to determine whether the expenses are reasonable, allowable, and necessarily incurred in connection with the travel assignment. VA Travel Administration, Volume XIV, Chapter 1 (February 2011).

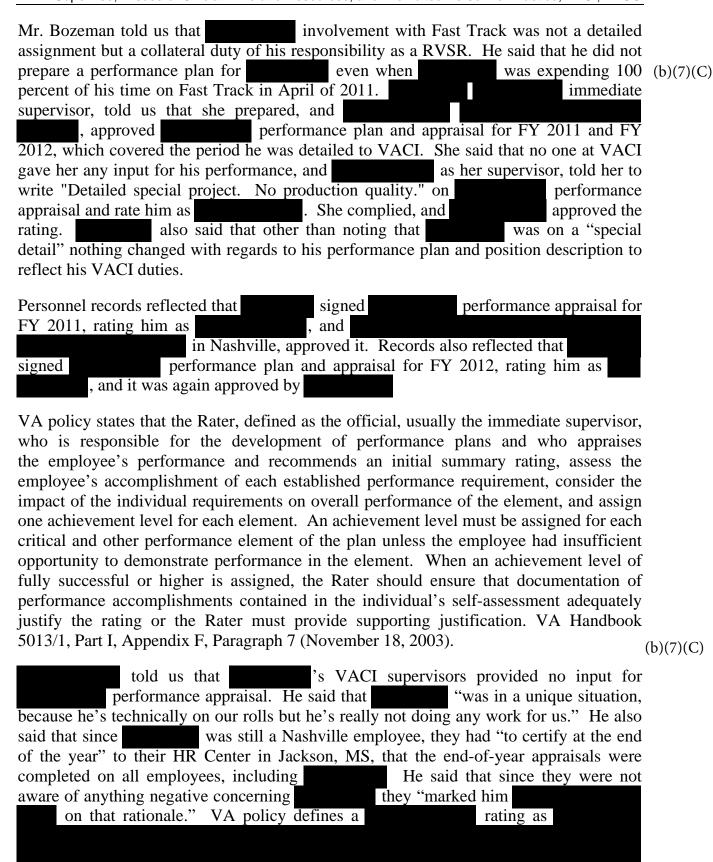
told us that, at his own discretion, he traveled to Washington, DC, about every other week, none with supervisory approval. He said that the way the Nashville VARO was organized, a fiscal officer, not in his supervisory chain, approved his travel expense

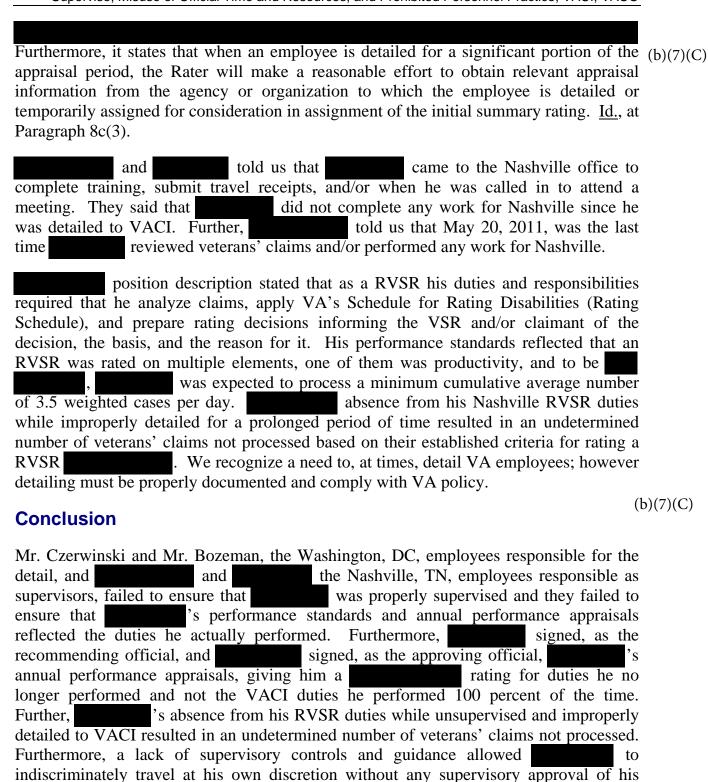
reports. He further said that he never communicated with his Nashville supervisor about his travel to Washington, DC, and that no one within his supervisory chain authorized or knew when he was in travel status. He said that he occasionally told Mr. Czerwinski when he traveled to Washington, DC, but that at any given time, Mr. Czerwinski would not know whether he was in Washington, DC, or Nashville.



Improper Performance Plan and Performance Appraisal

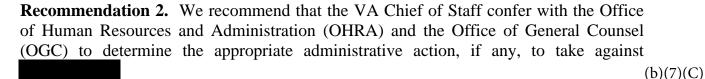
VA policy states that the intent of the performance appraisal is to appraise an employee's performance covering an entire rating period. To do so, when an employee changes positions within VA, a performance (summary) rating will be prepared by the Rater, shared with the employee, and forwarded to the servicing HR office or to the gaining organization. If the detail or temporary promotion lasts for [90 days or more], a performance rating will be prepared at the conclusion of the detail or temporary promotion that appraises the employee's performance while in the temporary position. This rating should be shared with the employee and then forwarded to the servicing HR management office or employing organization to consideration at the end of the appraisal period. VA Handbook 5013/1, Part I (November 18, 2003). VA policy states that an employee's performance rating is required when the employee was detailed to another position in VA or served in another employee position on an acting basis for 120 days or longer. In addition, VA policy states that if a detail or acting assignment is expected to last 120 days or longer, a written performance plan will be prepared. This written plan, developed in consultation with the employee, will be provided to the employee no later than 30 days after the beginning of the detail or acting assignment. Id., at Appendix F.





travel or his reimbursed travel expenses and led to additional misconduct on

part, which we discuss below.



Recommendation 3. We recommend that the VA Chief of Staff confer with the OHRA and OGC to determine the appropriate administrative action, if any, to take against

Recommendation 4. We recommend that the VA Chief of Staff confer with the OHRA and OGC to determine the appropriate administrative action, if any, to take against

Recommendation 5. We recommend that the VA Chief of Staff ensure that and receive appropriate refresher training in supervisory responsibilities for official travel, performance standards, and appraisals.

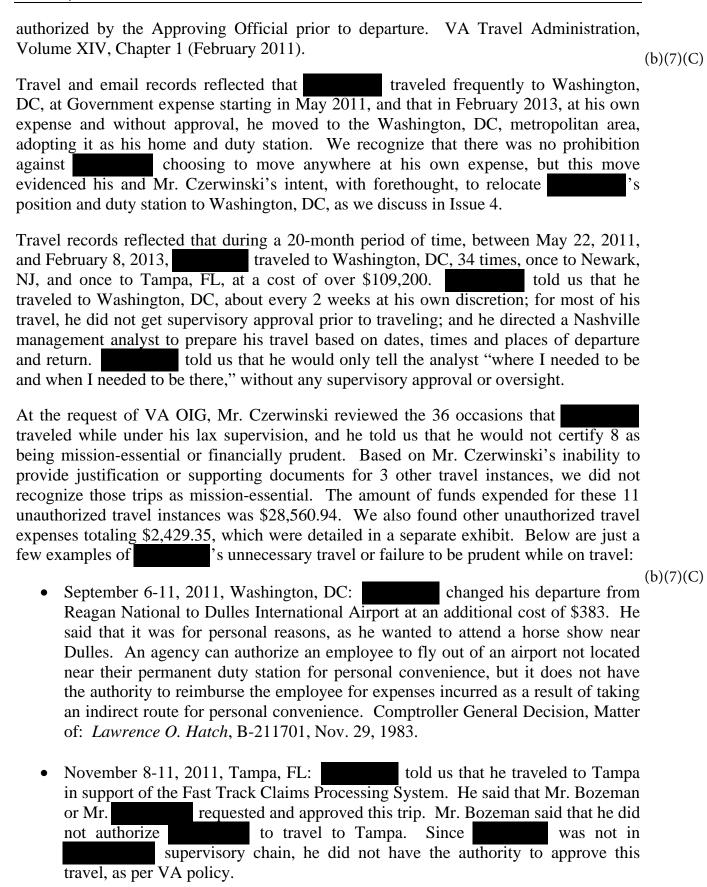
Issue 3: Whether Misused Official Time and Resources

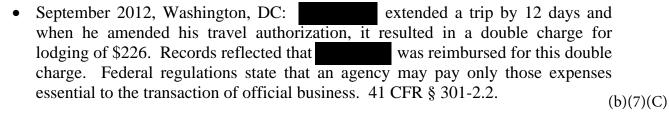
Federal regulations state that an employee shall not engage in conduct prejudicial to the Government. 5 CFR § 735.203. Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall not use public office for private gain, use Government property for other than authorized purposes, and must use official time in an honest effort to perform official duties. 5 CFR §§ 2635.101(b)(7), 704(a), and 705(a).

Misuse of Travel Funds

Federal regulations require agencies to pay only travel expenses that are essential to official business, employees to exercise prudence when incurring expenses on official travel, and prohibit the payment of excess costs resulting from circuitous routes or services unnecessary in the performance of official business. 41 CFR § 301-2.2, -2.3, and -2.4. Regulations also state that an agency must determine that use of a rental vehicle is advantageous to the Government and must specifically authorize such use; an agency may pay the fees pertaining to the first checked bag and for subsequent bags when the agency determines those expenses are necessary and in the Government's interest, and employees must provide receipts for lodging and any other expenses costing over \$75. Id., at 301-10.450, -12.2, and -52.4.

VA policy states that employees traveling on official business will have approval from their direct-line supervisors, no VA employee may authorize or approve his own travel, nor may an alternate preparer authorize or approve the travel expenses submitted on behalf of a traveler. It also states that each employee who authorizes, directs, or performs travel will exercise due care and practice economy in all matters involving travel costs. Moreover, it states that travel will be conducted at Government expense in accordance with statutory requirements and VA policy and that an employee will ensure travel is





• July 1–6, 2012, Washington, DC: traveled at a cost of \$2,197 over a holiday week. Mr. Czerwinski did not certify this trip as essential to the VACI mission. Federal regulations state that an agency may pay only those expenses essential to the transaction of official business. 41 CFR § 301-2.2.

Misuse of Government Contractor-Issued Travel Charge Card

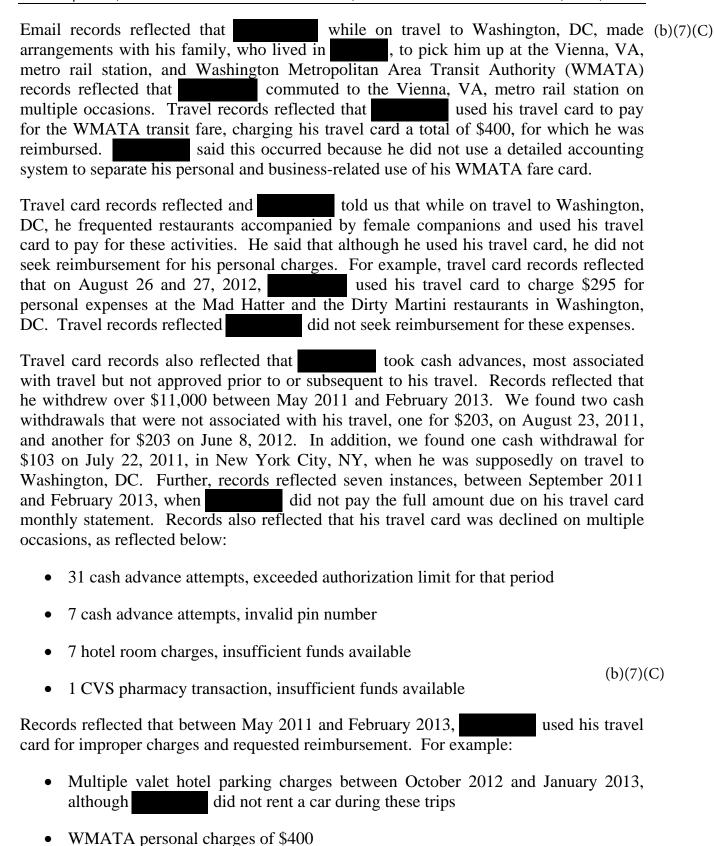
Federal regulations require employees to use a Government contractor-issued travel charge card for expenses directly related to their official travel. It also states that employees may not use the Government contractor-issued travel charge card for personal reasons. 41 CFR § 301-51.6 and 301-51.7. Further, it states that employees are required to pay their bill in accordance with their cardholder agreement. Id., at 301-52.24.

VA policy states that a misuse of the contractor-issued charge card and account delinquency are considered misconduct and subject the cardholder to disciplinary actions ranging from a reprimand to removal. VA Government Travel Charge Card, Volume XVI, Chapter 2, (October 2011). The U.S. Bank cardholder guide provides the agreement between the individually billed travel cardholder and U.S. Bank, and states that by activating, signing or using the Travel Card, the cardholder agrees to the terms and if the cardholder did not, they were to cut the Travel Card in half and return the pieces to U.S. Bank. It also states that the amount on the billing statement was due upon receipt and must be paid in full each billing cycle. Agreement Between Individually Billed Travel Cardholder and U.S. Bank, Paragraphs 2 and 8.

VA policy states that cardholders are required to pay the full amount on their statement using personal funds upon receipt, when the statement is due regardless of whether they have been reimbursed. It further states that cardholders may obtain Automated Teller Machine (ATM) withdrawals needed to pay for authorized expenses while on official travel when the vendor does not accept the travel card; however, ATM withdrawals must be noted and approved on all travel authorizations prior to travel. ATM withdrawal amounts are determined by the total meals and incidental expense allowance and any authorized miscellaneous expenses itemized on the travel authorization. VA Travel Charge Card policy, Volume XVI, Chapter 2 (October 2011).

(b)(7)(C)

Training records reflected that successfully completed the VA online travel charge card training on October 2012, and told us that every year, since 2007, he took the online travel charge card training.

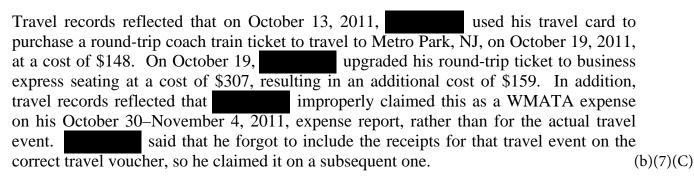


Travel records also reflected that used his travel card to pay for personal expenses while on travel to Washington, DC, but he did not seek reimbursement for these charges. For example:

- Numerous purchases of alcoholic beverages from his hotel room minibar (b)(7)(C)
- Numerous purchases at area CVS Pharmacy stores totaling over \$390
- A charge of over \$170 at a Target store located halfway between his parents' home and his newly rented apartment

Travel card records also reflected VRE and WMATA charges of \$80 and \$50 occurring on February 1 and February 11, 2013, respectively. told us that these were personal charges, and travel records reflected he did not seek reimbursement for them.

VA policy states that employees will be knowledgeable of Federal travel regulations, VA travel policy, and any other agency-specific guidance. In addition, employees will minimize costs of official travel by exercising the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Excess costs, circuitous routes, delays or luxury accommodations and services unnecessary or unjustified in the performance of official business will not be reimbursed and are not acceptable under this standard. It further states that all travel will be coach class unless other-than-coach-class travel is justified in writing, which will include why coach seating will not accommodate the traveler's needs. Coach-class accommodations will be used for all train travel except when VA authorizes first-class service. something prevents advance authorization, the employee will obtain written approval from the agency head within 7 days of completing travel. If other-than-coach-class travel is not approved after the fact, the employee is responsible for the cost difference between the other-than-coach-class transportation used and the transportation class for which the employee was eligible. VA Transportation Expense Policy, Volume XIV, Chapter 3 (August 2011).



told us that on October 19, Mr. Czerwinski asked him to upgrade his roundtrip train ticket to business class so that the entire VACI team traveling to NJ could sit together and talk business. We were unable to confirm this with Mr. Czerwinski, who resigned his VA position, so we did a cursory review of his travel records. We found that he traveled from Washington, DC, to Metro Park, NJ, by train on numerous occasions, and for those travel instances, to include his October 19 trip, Mr. Czerwinski bought and (b)(7)(C) received reimbursement for business-class train tickets at a higher cost and contrary to VA policy. Since Mr. Czerwinski resigned his VA position, we did no further review of his travel records. We determined, in our review of stravel records, that he misused a total of \$30,990.29 in travel funds.

Improper Teleworking

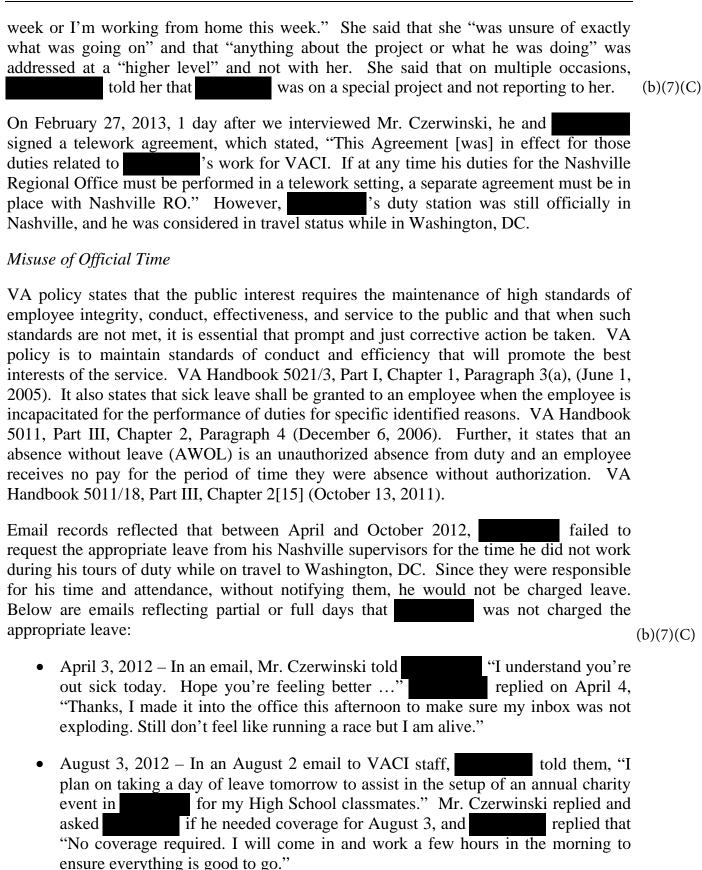
VA Telework policy states that for work-at-home Telework Proposal, the employee must complete a Telework Self-Certification Safety Checklist (VA Form 0740b), and submit it to his immediate supervisor. Each teleworker, whether in a telecenter or a home-based office, must sign a telework agreement. The agreement covers the terms and conditions of participation in the telework program, and it must be approved by the employee's immediate supervisor and appropriate approving official. Before approving agreements, supervisors and approving officials must determine the impact the telework arrangement will have on work operations. VA Handbook 5011/5, Part II, Chapter 4, Paragraph 6c and 6g (September 22, 2005).

told us that at times he teleworked from remote locations, such as hotels in Washington, DC, or while in Nashville without a telework agreement and without supervisory approval. He said that when he traveled to Washington, DC, he teleworked at least weekly from a hotel room or the apartment he rented in the Washington, DC, area in February 2013. Email, computer, and internet service provider records reflected that also accessed VA systems and teleworked from his personal residence in Nashville. He said that although he did not have a telework agreement and no one approved his teleworking, he did so whenever he wanted. He said that he did not ask his supervisors for their approval, and they would not know he was teleworking unless they specifically asked him. He further said that when he teleworked, he performed the same work as he did in the office, which he described as reading and responding to emails and making telephone calls; however, he also said that when he teleworked, he could not open encrypted email to read it.

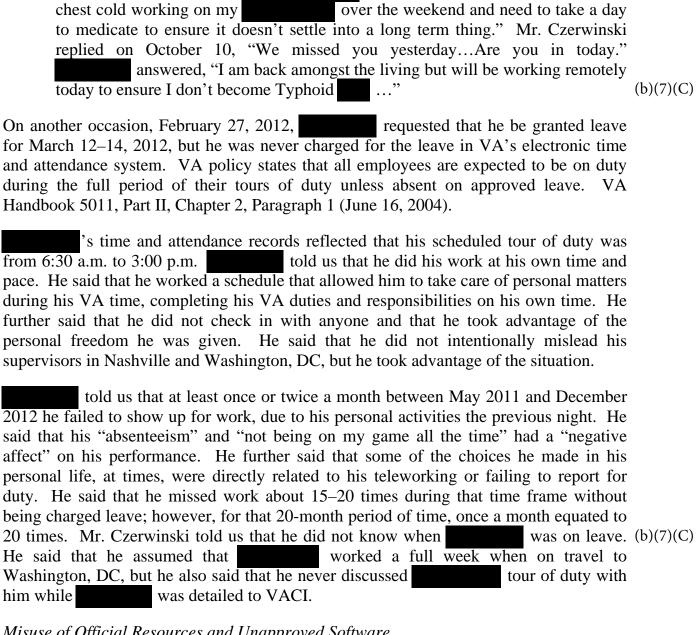
To describe the described as reading and responding to emails and making telephone calls; however, he also said that when he teleworked, he could not open encrypted email to read it.

Mr. Czerwinski told us that did not have a telework agreement and that he teleworked from a hotel room when in travel status. He said was unaware that when an employee was on travel, teleworking from a hotel room was inappropriate and redundant, as an employee could work from home rather than be in travel status. Mr. Kraft told us that he did not know if had a telework agreement with his Nashville supervisor. He said that if teleworked when in Nashville, he assumed it was an arrangement he had with VACI, and it was needed for a particular told us that the only time she knew that was teleworking project. or on travel was via email when told her that he was "in Washington this

(b)(7)(C)



told Mr. Czerwinski that "I caught a

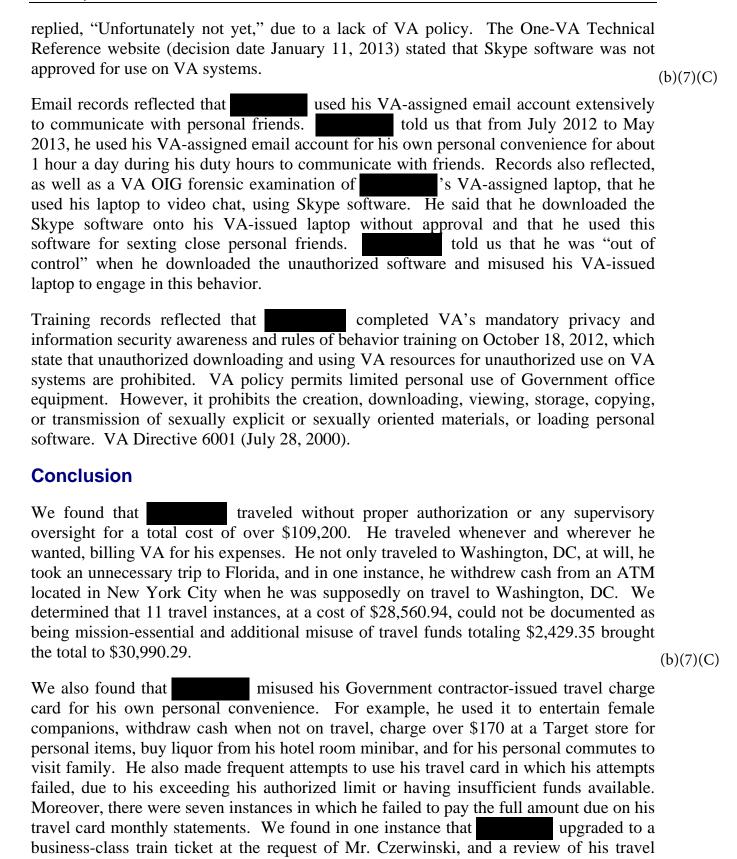


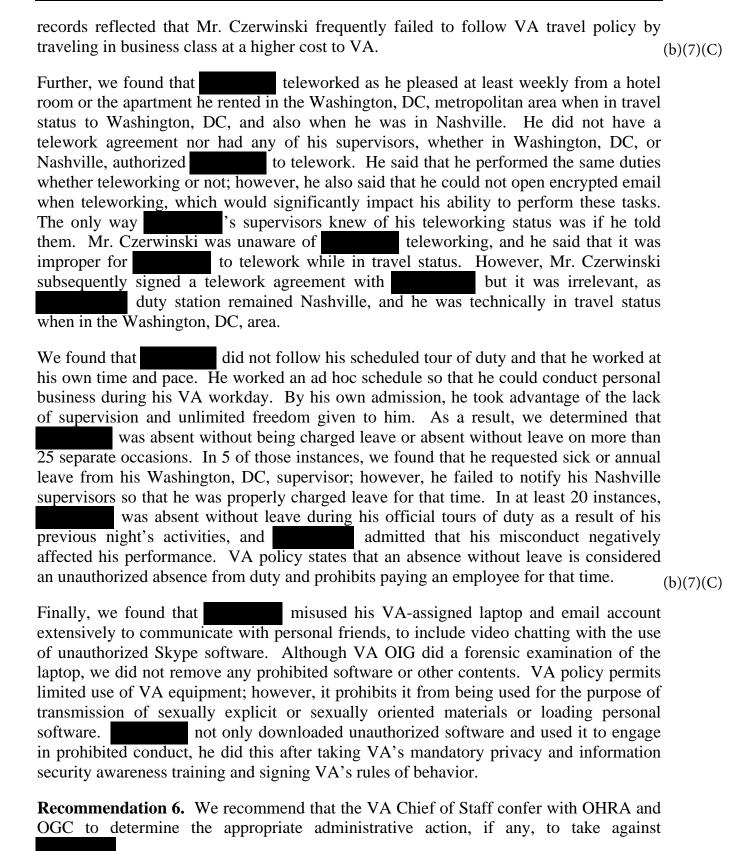
Misuse of Official Resources and Unapproved Software

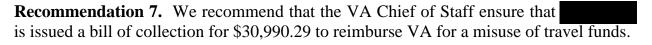
• October 9, 2012 – In an email,

VA policy states that email shall be used for authorized Government purposes and that users must exercise common sense, good judgment, and propriety in the use of this Government resource; employees will not misuse VA systems or resources; and employees will not download unauthorized applications and/or software. VA Handbook 6500 (September 20, 2012).

In a May 11, 2012, email, Mr. Czerwinski asked a VA Technology Director if he could download Skype—a proprietary software product for voice communications and multimedia sessions over the internet—to his VA-issued computer, and the Director







Recommendation 8. We recommend that the VA Chief of Staff ensure that it is charged the appropriate annual and sick leave for that time.

(b)(7)(C)

Recommendation 9. We recommend that the VA Chief of Staff ensure that the total amount paid to for the 20 instances that he was absent without authorization be determined and that is is issued a bill of collection for that amount, since he cannot receive pay for the time that he was absent without authorization.

Recommendation 10. We recommend that the VA Chief of Staff ensure that the Information Security Officer with oversight for so VA-issued equipment, to include his laptop and cellular telephone, examine that equipment to remove any unauthorized software and/or content.

Recommendation 11. We recommend that the VA Chief of Staff ensure that all VACI employees, to include any detailed or assigned to VACI from other organizations, receive refresher training on Federal travel regulations and VA travel policy.

Issue 4: Whether Mr. Czerwinski and VBA Officials Engaged in a Prohibited Personnel Practice

Federal law states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on personal knowledge or records of the person furnishing it and consists of an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or an evaluation of the character, loyalty, or suitability of such individual. Further, it prohibits granting any preference or advantage not authorized by law, rule, or regulation to any employee for the purpose of improving or the prospects of any particular person for employment. 5 USC § 2302(b). The Merit Systems Protection Board website www.mspb.gov/ppp/aprppp.htm states, "It is possible to violate section 2302(b)(6) using legally permissible hiring actions if the intent is to afford preferential treatment to an individual."

Standards of Ethical Conduct for Employees of the Executive Branch state that employees shall not use public office for private gain and shall act impartially and not give preference to any individual. 5 CFR § 2635.101(b). VA policy states that all GS-14 VBA positions centralized to the Under Secretary for Benefits require prior approval authority of the Under Secretary for Benefits. VA Handbook 5001, Part II, Paragraph 8b and Appendix C (April 15, 2002).

In a January 11, 2013, email, Mr. Czerwinski asked Mr. Richard Buchanan, Director of the Office of Strategic Planning (OSP), VBA, how to transfer from Nashville to Washington, DC. Mr. Czerwinski said:

There is a terrific guy working for the VA innovations team named, who is based out of the Nashville RO and works under Alan Bozeman, started out working part-time on VACI projects last year and has gradually become a very central member of the team. He wants to move to DC and he wants to stay working for the Innovations team. I wanted to ask you about how best to achieve this. One option would be to transfer his FTE from Nashville to VBACO and start paying for him out of the GOE portion of the VACI budget. Not sure if it makes sense from where you sit that he be moved to OSP or some other office and I would therefore greatly value your advice about what would be best for him." (Emphasis added)

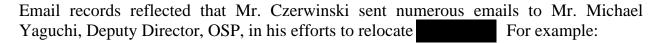
When we interviewed Mr. Czerwinski in February 2013, we told him of the allegations

and of the extent of the misconduct we found through our

(b)(7)(C)

investigation. Although we told Mr. Czerwinski that the detailed information we discussed during his interview was confidential, the simple fact that under investigation by OIG was not. However, we discovered that Mr. Czerwinski continued asking Mr. Buchanan, OSP staff, and VBA HR staff to find a way to relocate to Washington, DC, without telling them of the ongoing OIG investigation. In a March 7, 2013, email, Mr. Buchanan told Mr. Czerwinski, "I directed that the Office of Strategic Planning use a GS13/14 billet in the Deputy Director Transformation Initiatives and Future Concepts (DDTIFC) to hire . Once he is on board he will be assigned to VAi2 to fulfill the billet that you have requested of VBA." That same day, in another email, Mr. Buchanan directed OSP staff to use a GS13/14 position in (b)(7)(C) DDTIFC to hire who would then be assigned to VACI at Mr. Czerwinski's request. In that same email, Mr. Buchanan directed his HR Coordinator, , VBA OSP Program Specialist, to reach out to and work the details/timing of his assignment. Mr. Buchanan told us that Mr. Czerwinski preselected for this position before it was even created or announced. He said that Mr. Czerwinski suggested that "the stature of the position deserved a more senior pay grade," resulting in Mr. Buchanan making this a GS-13 position with promotional potential to a GS-14. He further said that Mr. Czerwinski failed to tell him that was under investigation by OIG and that if he (Mr. Buchanan) knew that there was an ongoing OIG investigation, he would have held the hiring process for in abeyance. He further said that, in his opinion, Mr. Czerwinski acted improperly by not disclosing this information to him. However, contrary to his assertions, Mr. Buchanan allowed the personnel action he signed converting to a career appointment to take effect on August 11, 2013, 4 days after we informed him of the OIG administrative investigation of

made against



- On March 29, 2013, "Mike—Do you have time to talk today? Phone is not working and I'd like to make sure this duty station transfer effort is closed out. Also want to make sure you are not waiting on anything from me."

 (b)(7)(C)
- On April 8, 2013, "Mike—Since we haven't been able to connect by phone can you tell me whether state—'s FTE is now a part of OSP/VBACO with the necessary duty station transfer and paperwork? If not, what can I do to help?"
- On May 31, 2013, "Mike, —Can you let us know the status of transfer?"
- On June 06, 2013, "Mike—Tomorrow another week will have passed. The ball went back to VBA three weeks ago on May 16th. Dragging this out any longer is unfair to the employee. Can we please close this out today?"

Mr. Yaguchi told us that his involvement with promotion was limited to helping write the position description (PD), soliciting for the VBA OSP position with the Office of the Undersecretary for Benefits, and talking with the Deputy Chief of Staff, Mr. Christopher Holly. He said that Mr. Czerwinski, Mr. Buchanan, and Mr. Holly told him to make this happen and he just followed orders. Mr. Yaguchi said that he thought the hiring effort was "perfectly legit," since was a veteran and already located in the Washington, DC, area.

told us that Mr. Buchanan directed him to look at background to determine how OSP could hire him. In an April 25, 2013, email, directed VBA HR Specialist, to create an SF-52 for a newly created GS-0343-13/14 position so as to relocate from Nashville to Washington, DC, to be the VBA liaison to VACI. told us that, at that time, he was unaware that was the subject of an OIG investigation.

In a May 4, 2013, email, and he could be considered non-competitively for a GS-13/14 or a GS-11/12/13 position. He said that to do so would require him to prepare a non-competitive vacancy announcement and send the link only to so that he could submit an application. He also "strongly suggest[ed]" having a PD for "rather than just 'fitting' him into another PD that doesn't accurately describe his duties." In a May 6, 2013, email, asked Mr. Czerwinski to submit a PD describing the duties and responsibilities for the GS-13/14 position to classify the position. Mr. Czerwinski complied.

Office of Personnel Management (OPM), Veterans Services, Vet Guide, states that an agency may give a non-competitive temporary appointment of more than 60 days or a term appointment to any veteran retired from active military service with a disability rating of 30 percent or more or rated by VA since 1991 or later to include disability determinations from a branch of the Armed Forces at any time, as having a compensable service-connected disability of 30 percent or more. It states that there is no grade level limitation for this authority, but the appointee must meet all qualification requirements. Further, the agency may convert the employee, without a break in service, to a career or career-conditional appointment at any time during the employee's temporary or term appointment. 5 USC § 3112; 5 CFR §§ 316.302, 316.402 and 315.707.

(b)(7)(C)Mr. Holly told us that Mr. Czerwinski asked OSP personnel to hire so they updated the OSP organization chart on April 1, 2013, to reflect the newly created position to be filled by He said that Mr. Czerwinski, on his own initiative, sent various emails to OSP personnel stating, "Hey it has been a month, why haven't you guys done this," and complained about how slow the process to hire Mr. Holly said that these emails were annoying and could be considered pressure from Mr. Czerwinski when OSP staff tried "cleaning up his mess and trying to make it right." Mr. Holly told us that OSP staff initially did the work to laterally move then they realized that, per Mr. Czerwinski, was supposed to be promoted to a GS-13. Mr. Holly said that Mr. Czerwinski failed to disclose to him that the subject of an OIG investigation, and he felt that this was a violation of the ICARE initiative—Core Values and Characteristics that apply universally across all of VA. Mr. Holly also said that if he knew that was under investigation, he would in Nashville until the investigation ran its course. He said that he have left thought Under Secretary Allison Hickey would be "crushed" and "fired up" to know that she signed a congratulatory letter for not knowing that he was under investigation by OIG. Moreover, he said that with VBA's backlog in veterans compensation claims, it will be devastating when OIG reports that rewarded via a promotion when his improper and extended detail to VACI contributed to the VBA backlog. (b)(7)(C)told us that he and posted a USAJOBS vacancy announcement for 2 days, for VA employees and for applicants who were noncompetitive eligible, such as eligible under veterans recruitment appointment (VRA), transfer/reinstatement eligible, individuals with disabilities, etc. However, the internet link (web said that he sent

someone else searching the USAJOBS website could have found the announcement,

said, "No." When asked if it was restricted only to an individual given the

said, "Yes." We found that this could be accomplished

VA Office of Inspector General

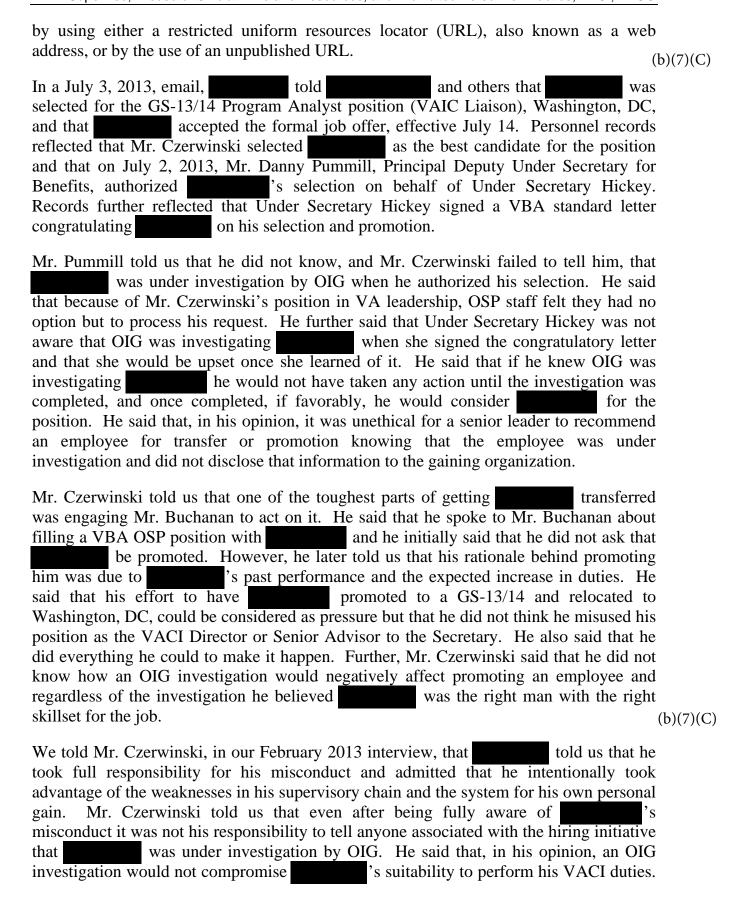
specific web address,

address) to the vacancy announcement and that

access, since Mr. Czerwinski wanted to select

was the only one given

for the position. When asked if



Mr. Czerwinski said that after the completion of the investigation should be more suitable and have a higher awareness of the guidelines he should follow.

Conclusion (b)(7)(C)We concluded that Mr. Czerwinski engaged in a prohibited personnel practice when he, with intent to do so, gave preferential treatment and provided him an advantage not afforded to other VA employees. He first improperly detailed for over 2 years into a position with known promotion potential, and he "did everything he could" to create a position at a higher grade for so that relocate to Washington, DC, and continue working for VACI. Mr. Czerwinski began the process in January 2013, and 1 month later, relocated to the Washington, DC, area, anticipating that his duty station would officially be changed. We also found that Mr. Czerwinski did not discharge the duties of his position when he, with full knowledge of an ongoing OIG administrative investigation and of the extent of misconduct, intentionally did not inform VBA officials of the investigation so that they could make a fully informed decision in the hiring initiative associated with promotion. Most told us that had they known of the OIG investigation they would have made a different decision in this initiative. We also concluded that Mr. Holly, Mr. Buchanan, and engaged in a prohibited personnel practice when they did not make proper considerations in making personnel decisions and with intent to do so, gave preferential treatment in the creation of a higher-graded position with the intent of promoting into that position. They, without question, created an OSP position to to Washington, DC, solely because Mr. Czerwinski promote and relocate asked them to do so. We recognize that VBA officials could have legitimately laterally into another GS-12 position for which he was qualified, but they transferred chose not to use that option. We also recognize that as a could have been appointed, non-competitively, to any grade position. However in this instance, the vacancy announcement was for all VA employees who were non-competitive eligible, vet being preselected, was the only applicant given access to the vacancy announcement to apply for the position. Moreover, the intent of creating the position and posting the announcement was to give Mr. Czerwinski, using his stature and position within VA leadership, applied pressure to VBA officials to "make this happen," and they blindly followed his directive. (b)(7)(C)

Recommendation 12. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take concerning the prohibited personnel practice and some promotion.

Recommendation 13. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against Mr. Holly.

Recommendation 14. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against Mr. Buchanan.

(b)(7)(C)

Recommendation 15. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against

Recommendation 16. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against

Comments

The VA Chief of Staff was responsive. He asked that we revise or clarify several items in our draft report, which we did. His comments are in Appendix A. We will follow up to ensure that the recommendations are implemented.

JAMES J. O'NEILL Assistant Inspector General for Investigations

Appendix A

VA Chief of Staff Comments

Department of Veterans Affairs

Memorandum

Date: February 12, 2014

From: VA Chief of Staff (00A)

Subject: OIG Report – Administrative Investigation, Failure to

Properly Supervise, Misuse of Official Time and Resources,

and Prohibited Personnel Practice, VACI, VACO

To: Director, Administrative Investigations Division,

Office of Inspector General (51Q)

1. We appreciate the opportunity to review the OIG Report,

subject as above.

2. We concur with the revisions made to the report.

VA Chief of Staff's Comments to Office of Inspector General's Report

The following VA Chief of Staff's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommendation 1. We recommend that the VA Chief of Staff ensure that VBA conducts a review of all RVSRs to ensure that any not performing the functions of their position are either properly detailed or returned to their RVSR duties.

Comments: See page 26.

Recommendation 2. We recommend that the VA Chief of Staff confer with the OHRA and OGC to determine the appropriate administrative action, if any, to take against

Comments: See page 26.

Recommendation 3. We recommend that the VA Chief of Staff confer with the OHRA and OGC to determine the appropriate administrative action, if any, to take against

(b)(7)(C)

Comments: See page 26.

Recommendation 4. We recommend that the VA Chief of Staff confer with the OHRA and OGC to determine the appropriate administrative action, if any, to take against

Comments: See page 26.

Recommendation 5. We recommend that the VA Chief of Staff ensure that and receive appropriate refresher training in supervisory responsibilities for official travel, performance standards, and appraisals.

Comments: See page 26.

Recommendation 6. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against

Comments: See page 26.

Recommendation 7. We recommend that the VA Chief of Staff ensure that is issued a bill of collection for \$30,990.29 to reimburse VA for a misuse of travel funds.

(b)(7)(C)

Comments: See page 26.

Recommendation 8. We recommend that the VA Chief of Staff ensure that stime is time and attendance between March and October 2012 is corrected and that he is charged the appropriate annual and sick leave for that time.

Comments: See page 26.

Recommendation 9. We recommend that the VA Chief of Staff ensure that the total amount paid to for the 20 instances that he was absent without authorization be determined and that is is issued a bill of collection for that amount, since he cannot receive pay for the time that he was absent without authorization.

Comments: See page 26.

Recommendation 10. We recommend that the VA Chief of Staff ensure that the Information Security Officer with oversight for s VA-issued equipment, to include his laptop and cellular telephone, examine that equipment to remove any unauthorized software and/or content.

Comments: See page 26.

Recommendation 11. We recommend that the VA Chief of Staff ensure that all VACI employees, to include any detailed or assigned to VACI from other organizations, receive refresher training on Federal travel regulations and VA travel policy.

Comments: See page 26.

Recommendation 12. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take concerning the prohibited personnel practice and "'s promotion."

(b)(7)(C)

Comments: See page 26.

Recommendation 13. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against Mr. Holly.

Comments: See page 26.

Recommendation 14. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against Mr. Buchanan.

Comments: See page 26.

Recommendation 15. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against

(b)(7)(C)

Comments: See page 26.

Recommendation 16. We recommend that the VA Chief of Staff confer with OHRA and OGC to determine the appropriate administrative action, if any, to take against

Comments: See page 26.

Appendix B

OIG Contact and Staff Acknowledgments

OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
Acknowledgments	Domingo Alvarez Charles Millard

Appendix C

Report Distribution

VA Distribution

Deputy Secretary (001) Chief of Staff (00A) Executive Secretariat (001B) Under Secretary for Benefits (20)

To Report Suspected Wrongdoing in VA Programs and Operations:

Telephone: 1-800-488-8244 E-Mail: vaoighotline@va.gov

Hotline Information: www.va.gov/oig/hotline