

Department of Veterans Affairs

Memorandum

Date: January 4, 2011

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation – Alleged Preferential Treatment and Misuse of Position, Office of Quality, Performance, and Oversight, OI&T, VACO (2010-02858-IQ-0017)

To: Executive Director, Quality, Performance and Oversight (005X)

1. The VA Office of Inspector General (OIG) Administrative Investigations Division investigated an allegation that [REDACTED] gave a subordinate, [REDACTED] IT Specialist, preferential treatment due to an inappropriate personal relationship. To assess the allegation we interviewed [REDACTED] and other OI&T staff. We also reviewed email, personnel, and travel records; Federal regulations; and VA policy.

(b) (7)(C)

2. We concluded that although [REDACTED]'s close friendship with [REDACTED] created an appearance of preferential treatment, we found no instances of actual preferential treatment; however, we found that [REDACTED] and [REDACTED]'s closer-than-arms-length personal relationship was problematic. Email records reflected that their familiarity and comfort level with one another went beyond that of professional colleagues while she was [REDACTED] supervisor, and computer, email, and telephone records reflected that it continued after she no longer supervised him but still wielded influence as a senior official within OI&T. We also found that their personal use of VA-issued equipment went beyond that of limited personal use. Further, we found that [REDACTED] misused her position and title when she used her VA-assigned email to send a "letter of concern" to a military Commanding Officer regarding treatment of a member of [REDACTED]'s family. We suggest that you emphasize to [REDACTED] that even the appearance of preferential treatment diminishes her position and authority as a senior leader. She is not only held to a higher standard but she sets the tone for subordinates. We also suggest that [REDACTED] and [REDACTED] take VA policy and ethics refresher training and that [REDACTED] be instructed to recuse herself from any involvement, whatsoever, in any official VA work-related discussions or decisions concerning [REDACTED]. **No response is necessary.**

(b) (7)(C)

3. Standards of Ethical Conduct for Employees of the Executive Branch require employees to act impartially and not give preferential treatment to any individual and to avoid any actions creating the appearance that they are violating the law or ethical standards. 5 CFR § 2635.101(b)(8) and (14). It further states that an employee shall not use or permit the use of his Government position or title in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities. Id., at .702(b).

4. [redacted] and [redacted] told us that they first met in [redacted] when [redacted] was the [redacted] and they found that they had common [redacted] in that they [redacted] and they knew some of the same people. [redacted] said that she was the [redacted] from [redacted] 2009 to [redacted] 2010. [redacted] and [redacted] said that while [redacted] was the [redacted] their interactions were always professional but that it was not until [redacted] completed her tenure as [redacted] that their relationship developed into a close friendship. To the contrary, [redacted] told us that while [redacted] during the time that [redacted] was the [redacted] she attended a [redacted] with [redacted] and [redacted] who were also there on official travel. She said that she felt awkward [redacted] because [redacted] and [redacted] were overtly flirtatious with one another. [redacted] described it as being in the company of two "16-year olds."

(b) (7)(C)

5. In an October [redacted] 2009, email chain, [redacted] told [redacted] while serving as his [redacted] supervisor, about a tasking she gave to an unidentified Regional Director, a subordinate to [redacted] but a superior to [redacted] and said "Why is it that people can't accomplish tasks unless you give them a suspense and then threaten them?" [redacted] responded:

(b) (7)(C)

- A) they don't give a crap
- B) short attention span
- C) they didn't come up with the idea, therefore its not important to them or...
- D) all the above

[redacted] replied, "I could be more creative if I were drinking linnies..." [redacted] then asked [redacted] "Are you still pool side?? :-p" Their email conversation continued about a televised baseball game, and [redacted] then said, "Oh, loser buys dinner (unless you're chicken) bak, bak...:-p LOL" [redacted] replied, "I am not a loser nor am I a chicken! I am (at least for the next few days) a huge twins fan. Not to say that I'm not pickin up the tab."

6. In a December 18, 2009, email, [redacted] sent [redacted] an attached photograph and said, "Here's a holiday pic taken earlier this month. Not the best color combo - but I was packing light. Let me know if you get this and if which account you want me to use if I send other pics." In a December 22, 2009, email chain, [redacted] asked [redacted] to "send me an im [instant message] please!" She replied, "Did u get it?" [redacted] responded, "Sent u some too..." [redacted] then told [redacted] "Weird. Didn't get em." [redacted] wrote back, "Whaaa:(, and [redacted] replied, "I know!!!" After additional back and forth comments, [redacted] told [redacted] that, "Might be my fault. I sent u a couple on liz phair tunes and a risqué headline." On January [redacted] 2010, [redacted] while still serving as [redacted] supervisor, forwarded [redacted] an email that was mistakenly distributed within OI&T and she commented, "Fuckin stupid...Opps!"

(b) (7)(C)

7. One ITOC [redacted] told us that he saw no preferential treatment or inappropriate behavior between [redacted] and any of her subordinates. Another ITOC

██████████ told us that through rumors she heard that ██████████ had a personal relationship with ██████████. She further said that ██████████ made attempts to have ██████████ placed on a special project without going through his supervisor. She said that she and ██████████ tried to figure out why ██████████ wanted ██████████ on the tasking, since he did not have the skill sets for it. ██████████ said that for the tasking they needed someone with technical skills and ██████████ was a "fiscal security expert," not an "IT security expert." ██████████ told us that it was a member of the team that suggested that he be part of the team. ██████████ said that she recommended all team members for monetary awards, because of their work on the team. She said that two of the team members were ██████████ and ██████████ ██████████ on the team, and she said that ██████████ got the smallest award of the three. Personnel records reflected that on February ██████████ 2010, ██████████ received a \$1,500 monetary award and that his two team members received \$2,500 each.

(b) (7)(C)

8. ██████████ told us that ██████████ assigned ██████████ and another employee that worked for ██████████ to a specific work group without telling ██████████. She said that it was a collaborative work group with VA Security and Law Enforcement and that no one provided her information about her employees' involvement unless she asked for information to "make sure that they were gainfully employed." ██████████ further said that in spring 2010, ██████████ requested that ██████████ be assigned to a Homeless Veterans Project for his technical assistance. ██████████ said that when ██████████ told her what skill sets he needed, she explained that ██████████ did not possess any of those skills. ██████████ told us that ██████████ was "taken back" and that he told her that ██████████ recommended ██████████ as a good fit for the project. In an April ██████████ 2010, email, ██████████ asked ██████████ to permit ██████████ to be part of the Elimination of Veterans' Homelessness Initiative, and in her response, she asked him to call her so that they could discuss the project needs. ██████████ told us that he asked ██████████ to recommend him for the Homeless Veterans Project and that he also told ██████████ that he wanted to be involved with it. He said that his name was given to ██████████ however, he said that ██████████ told him that he needed someone with GS-2210 technical skills, not operations skills.

(b) (7)(C)

9. A forensic examination of ██████████'s VA-issued computer and laptop reflected that they contained numerous digital photo files including images of ██████████ which ██████████ created between December 14, 2009, and May 3, 2010, using a Blackberry 8330. These images included generic photos and various photos of ██████████'s face and of his body either clothed or bare-chested. Further, we found various emails that ██████████ sent ██████████ between March 13 and June 4, 2010, which contained attached images to include generic photos and various photos of ██████████'s face or body, clothed and bare-chested. In one email, dated April 5, 2010, ██████████ sent ██████████ an image that she took of herself in front of a mirror and dressed in what appeared to be a bikini top and low slung workout shorts. VA policy states that VA employees are permitted limited use of Government office equipment for personal needs if the use does not interfere with official business and involves minimal additional expense to the Government. It further states that employees are expected to conduct themselves professionally in the workplace and

(b) (7)(C)

are required under the Standards of Conduct to refrain from using Government office equipment for activities that are inappropriate. Employees also have no inherent right to use Government office equipment for other than official activities and VA Administrations and Staff Offices will establish necessary controls to ensure that the equipment is used appropriately. VA Directive 6001, Paragraphs 2a, 2c, and 2e (July 29, 2000)

10. A forensic examination of [REDACTED]'s VA-issued cellular telephone reflected that between July 4 and July 27, 2010, [REDACTED] either called or received calls from [REDACTED]'s VA-issued cell phone 97 times or an average of four times a day. [REDACTED]'s telephone also contained two image remnants, one of [REDACTED]'s face and another of him bare-chested. Further, text messages sent between [REDACTED] and [REDACTED]'s VA-issued cellular telephone reflected that on July 16, 2010, [REDACTED] sent her a text message of "XXXX" and on July 17, she sent him a message of "XOXOXOXO." Moreover, her telephone contained over 110 email messages sent or received by [REDACTED] and [REDACTED] between July 2 and July 26, 2010. In one email, dated July 21, 2010, with the subject line "Series - Grade - Ste[- Salary - Position Number validation [REDACTED] responded to [REDACTED] "I will follow up w [REDACTED] I promise I will do everything I can. I'm so sorry u r havin to go through all this." [REDACTED] told us that his career ladder promotion that was due in [REDACTED] to [REDACTED] was placed on hold, because he requested to be changed from a series [REDACTED] to a GS-[REDACTED]. He said that he spoke to his supervisor about it; however, [REDACTED] that she told him that he needed to be patient. The OI&T Organizational Chart reflected that [REDACTED] had oversight for both [REDACTED]'s and [REDACTED]'s Directorates.

(b) (7)(C)

11. A forensic examination of images that [REDACTED] took of himself reflected him in non-work related functions during his tours of duty. For example, one image taken on Thursday, December 17, 2009, at 8:56 a.m., showed [REDACTED] in workout clothing at a gym. [REDACTED] told us [REDACTED] worked out of his house; that the gym was about a 5-minute drive from his home; and that he went there to work out during his 30-minute lunch period. Another image taken on Monday, December 14, 2009, at 4:14 p.m., showed him in a vehicle in front of a store. [REDACTED] said that he could not recall why he was away from his duty station that day. In a Tuesday, May 11, 2010, email sent at 3:51 p.m. [REDACTED] told [REDACTED] "I got a haircut today." [REDACTED] said that his barber was a 5 or 10-minute drive from his home but that he could not recall when he got the haircut. Time and attendance records reflected that [REDACTED]'s duty hours were 8:00 a.m. to 4:30 p.m. Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall use official time in an honest effort to perform official duties. 5 CFR § 2635.705. [REDACTED] told us that it was not acceptable for an employee to leave their duty station during the workday, except for short trips, such as picking up lunch or going to the post office, and that these must be accomplished during their 30-minute lunch period. She further said that unless there were extenuating circumstances, she would not approve of an employee taking their lunch break within 1.5 hours of reporting for duty. In a December 28, 2010, email [REDACTED] told [REDACTED] that he was permitted a 15-minute break in the morning, a 30-minute lunch break to be taken mid-shift, and a 15-minute afternoon break.

(b) (7)(C)

12. On February 19, 2010, [REDACTED] using her VA-assigned email, sent an email message titled "Letter of Concern" to a Commanding Officer of a military medical facility. In her email, she stated, "**We are very disappointed in the deplorable service** (emphasis added) our family has received from [REDACTED]." [REDACTED] continued describing what she believed was inadequate medical care for a family member, and she ended the email with, "**[REDACTED] Clinic is a disgrace to the Army and the medical community** (emphasis added) and has forced one young Army family member to suffer dearly due to poor leadership and a lack of compassion and commitment." She signed the email as "[REDACTED] Office of Information & Technology, Department of Veterans Affairs." VA policy states that employees have the responsibility to ensure that they are not giving the false impression that they are acting in an official capacity when they are using Government office equipment for non-Government purposes. VA Directive 6001, Paragraph 2e (July 28, 2000).

(b) (7)(C)

13. We concluded that although [REDACTED]'s close friendship with [REDACTED] created an appearance of preferential treatment, we found no instances of actual preferential treatment; however, we found that [REDACTED] and [REDACTED]'s closer-than-arms-length personal relationship was problematic. Email records reflected that their familiarity and comfort level with one another went beyond that of professional colleagues while she was [REDACTED] supervisor, and computer, email, and telephone records reflected that it continued after she no longer supervised him but still wielded influence as a senior official within OI&T. We also found that their personal use of VA-issued equipment went beyond that of limited personal use. Further, we found that [REDACTED] misused her position and title when she used her VA-assigned email to send a "letter of concern" to a military Commanding Officer regarding treatment of a member of [REDACTED]'s family. We suggest that you emphasize to [REDACTED] that even the appearance of preferential treatment diminishes her position and authority as a senior leader. She is not only held to a higher standard but she sets the tone for subordinates. We also suggest that [REDACTED] and [REDACTED] take VA policy and ethics refresher training and that [REDACTED] be instructed to recuse herself from any involvement, whatsoever, in any official VA work-related discussions or decisions concerning [REDACTED]. **No response is necessary.**

(b) (7)(C)

14. We are providing you this memorandum for your information and official use and whatever action you deem necessary. It is subject to the provisions of the Privacy Act of 1974 (5 U.S.C. § 552a). You may discuss the contents of this memorandum with [REDACTED] and [REDACTED] within the bounds of the Privacy Act; however, it may not be released to them. No response is necessary. If you have any questions, please contact [REDACTED]

(b) (7)(C)

WARNING
5 U.S.C. §552a, PRIVACY ACT STATEMENT

This memorandum contains information subject to the provisions of the Privacy Act of 1974 (5 U.S.C. §552a). Such information may be disclosed only as authorized by this statute. Questions concerning release of this memorandum should be coordinated with the Department of Veterans Affairs, Office of Inspector General. The contents of this memorandum must be safeguarded from unauthorized disclosure and may be shared within the Department of Veterans Affairs on a need-to-know basis only.