

Department of Veterans Affairs Office of Inspector General

Administrative Investigation Misuse of Official Time and Resources and Failure to Properly Supervise Office of Human Resources and Administration, Washington, DC

Redacted



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

TO: Acting Assistant Secretary for Human Resources and Administration

SUBJECT: Administrative Investigation, Misuse of Official Time and Resources

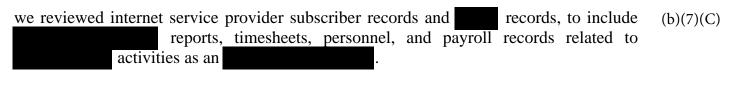
and Failure to Properly Supervise, Office of Human Resources and

Administration, Washington, DC (2012-02503-IQ-0091)

Summary

We substantiated that , Management Analyst, Office of Human Resources and Administration (HR&A),	
misused official time and VA resources. We found that worked as a	(b)(7)(C)
and that worked as a on numerous occasions during VA cours of duty between October 2009 and April 2012. We also found that misused	
VA-assigned computer and email account for duties and that failed to properly request sick leave for attending to medical matters during VA tours of duty.	
We also substantiated that Mr. Joseph Viani, Executive Director for HR&A Strategic Management Group (SMG), and Ms. Mary Santiago, former (retired) Director of VESO, failed to properly supervise . We found that Mr. Viani and Ms. Santiago knew that worked as a during VA tours of duty and that they did not exercise the necessary supervisory oversight to ensure took the proper leave to cover absences.	
Introduction	

The VA Office of Inspector General Administrative Investigations Division investigated misused official time and VA resources to work as a an allegation that then supervisor, Ms. Santiago, knew of this misuse and failed and that to take corrective action. To assess these allegations, we interviewed Mr. Viani, and other VA employees. We were unable to interview Ms. Santiago, as she announced her retirement shortly after we asked her for an interview and declined to meet with us before or after her retirement. We also reviewed VA email, personnel, telework, and time and attendance records, as well as VA Virtual Private Network logs. Further,



Background

A previous VA OIG administrative investigation entitled: Alleged Prohibited Personnel Practices, Other Improper Hiring Practices, and Conduct Prejudicial to the Government, Office of Human Resources and Administration, VACO (2011-00198-IQ-0002), dated April 7, 2011, disclosed that became an in September 2005 and that in June 2006, while working part-time as a began working full-time as a large In September 2009, Mr. John Sepulveda, VA's former Assistant Secretary for HR&A, hired as a VA GS-14 Program Analyst; however, continued to work part-time as a large In September 2009.



Results

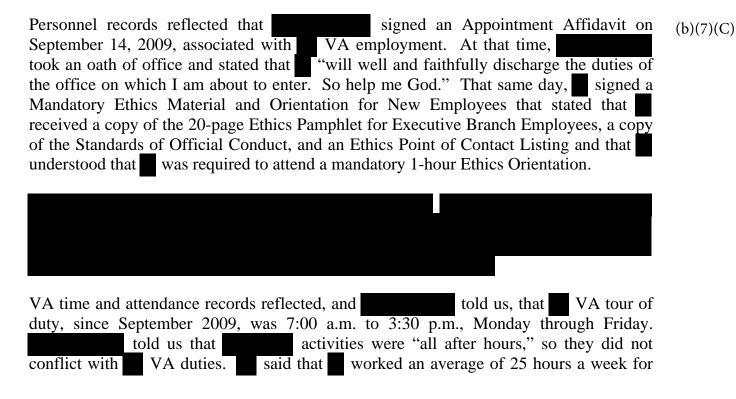
Issue 1: Whether Misused Official Time and Resources

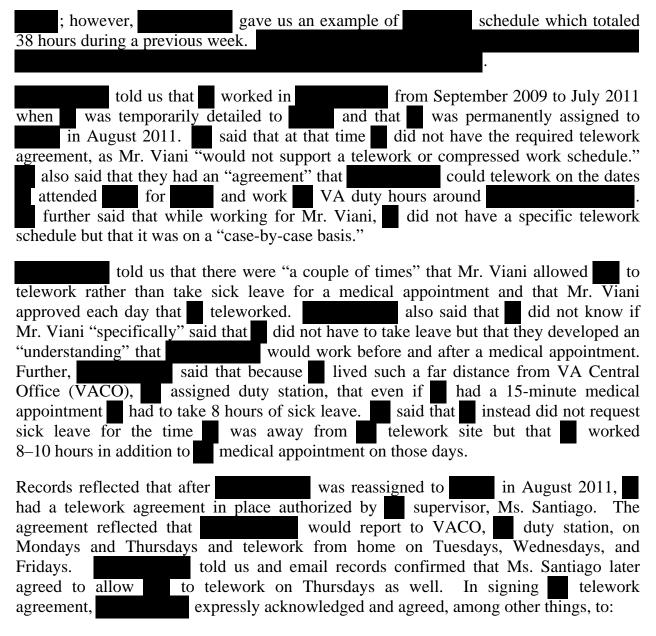
Federal regulations state that an employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government. 5 CFR § 735.203.

Standards of Ethical Conduct for Employees of the Executive Branch state that unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. 5 CFR § 2635.705.

VA policy states that all employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave; to observe the opening and closing hours established for the tour of duty; and to adhere to established luncheon periods. VA Handbook 5011, Part II, Chapter 2, Paragraph 1 (April 15, 2002). VA policy also states that employees are responsible for maintaining productivity and for fulfilling their obligation to account for a full day's work. VA Handbook 5011/5, Part II, Chapter 4, Paragraph 3 (September 22, 2005).

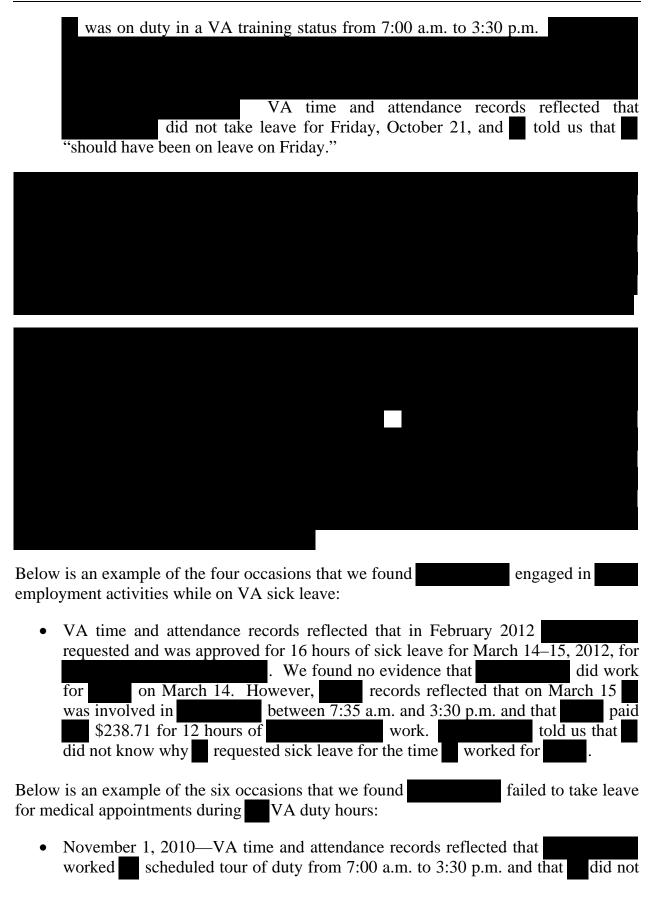
VA policy states that sick leave shall be granted to an employee when the employee is incapacitated for the performance of duties for specific identified reasons, VA Handbook 5011, Part III, Chapter 2, Paragraph 4 (April 15, 2002), and an employee who engages in outside employment during any part of the time for which he requests sick leave, shall notify the supervisor of the outside employment, and VA policy states that normally, employees may not be granted sick leave for any period during which it is known that they perform outside employment. VA Handbook 5011/15, Part III, Chapter 2, Paragraph 4 (December 31, 2008). Moreover, VA policy states that an absence without leave (AWOL) is an unauthorized absence from duty and that an employee receives no pay for the period of time they were absent without authorization. VA Handbook 5011/18, Part III, Chapter 2, Paragraph 15 (October 13, 2011).

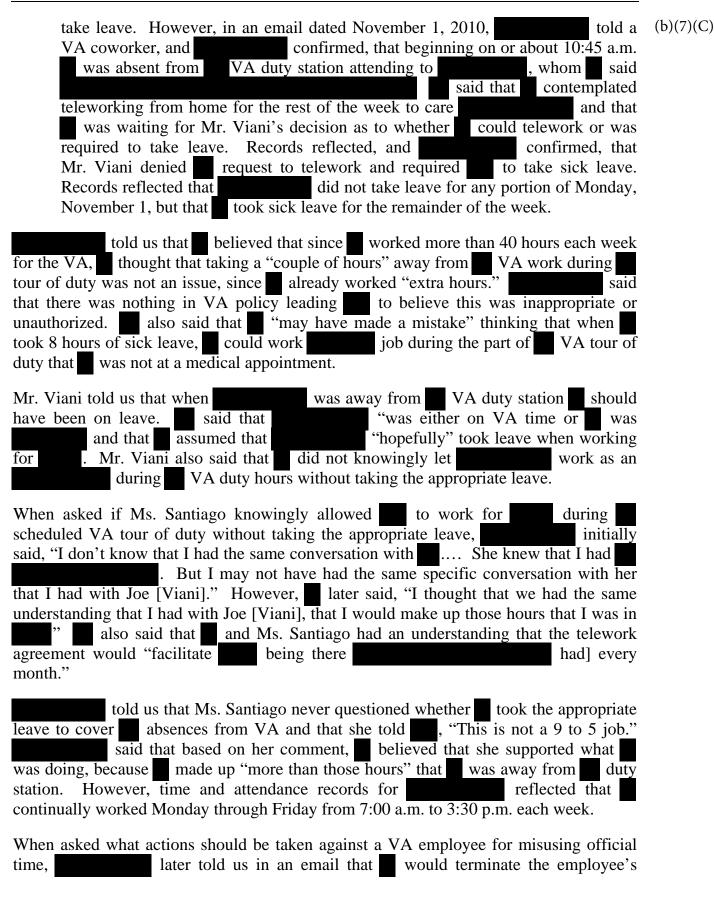




- Only perform official duties when on duty at VACO or the alternate work site.
- Not conduct personal business while in official duty status at the alternate work site.
- Follow office procedures for requesting and obtaining approval for leave.
- Work overtime only when ordered and approved by the supervisor in advance, and that doing so without such approval could result in termination of the telework agreement and/or other disciplinary action.
- Be bound by VA standards of conduct while working at the alternate worksite.

Contrary to assertion that activities were "all after hours," records reflected that between October 2009 and April 2012, misused official VA time on 39 separate dates. Below are three examples of the 29 times that engaged in employment activities while on VA time and supposedly teleworking for VA from residence.
• August 13, 2010—VA time and attendance records reflected that worked 7:00 a.m. to 3:30 p.m. tour of duty. Email records reflected that told Mr. Viani that would be teleworking, as Email records reflected that 10 days before,
involved in was
told us that "thought" that took leave that day; however, VA records reflected that did not.
• March 18, 2011—VA time and attendance records reflected that worked 7:00 a.m. to 3:00 p.m. tour of duty, and there was no record of requesting leave for this day. At 8:11 a.m., sent Mr. Viani and others an email stating, "I'll be out of the net for the next hour or so . If you need something, shoot me a note and I will get back to you
admitted that VA and time overlapped and that should have requested sick leave for the medical appointment, instead of teleworking. again said that "thought" that took 8 hours of sick leave for this day. said that thought that could work for outside of the time and while on VA authorized sick leave.
• Friday October 21, 2011—VA travel records reflected that traveling home from a VA training event held in Austin, TX, but lodging and parking receipts reflected, and told us, that began travel home on October 20, 1 day earlier. parking receipt reflected that left the airport parking lot to return to residence shortly after midnight on October 21. VA time and attendance records reflected that amended timecard 5 months later to add 8 hours of compensatory time for October 20 travel home. However, did not amend timecard for October 21, and it still reflected that



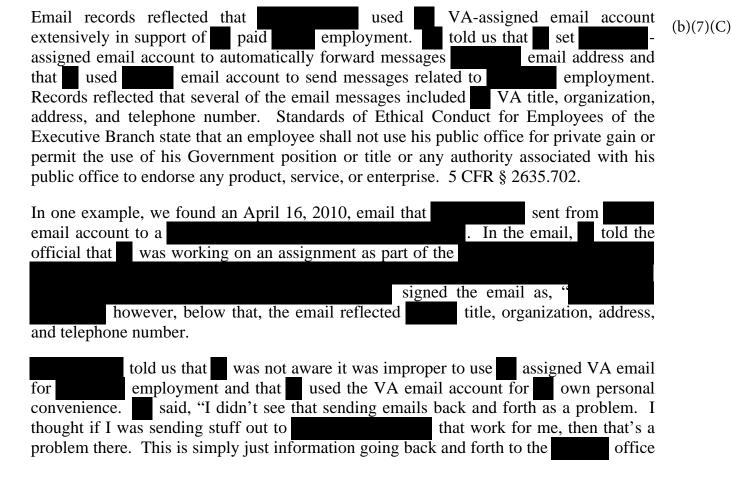


telework, require a doctor's note for even 1 day of sick leave, ensure the employee no longer worked unauthorized overtime, and

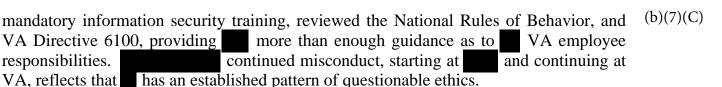
... I would recommend much more than just a leave adjustment. I would say that not only should the proper leave be charged or the time counted as leave without pay and the salary recouped for the time in question (whichever is more feasible as I am not sure how all that works), but I would also think that a General Officer Letter of Reprimand (or the civilian equivalent) would be imposed and placed in the official personnel files, and I would recommend a forfeiture of pay (which I guess outside the military is accomplished by a suspension).

Misuse of Official Resources

VA policy prohibits any personal use of Government equipment, including the internet, for commercial purposes, in support of "for profit" activities, or in support of other outside employment or business activity. VA Directive 6001 (July 28, 2000). 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. VA Handbook 6500 (September 18, 2007).



taff. I didn't realize that was a problem." However, VA training records reflected that took VA's mandatory information security training, which included reviewing and acknowledging the National Rules of Behavior that contained information regarding the prohibitions on use of VA systems in support of secondary employment. Moreover, a VA User's Remote Computing Security Agreement form submitted as part telework agreement with Ms. Santiago reflected that acknowledged signature that reviewed VA Directive 6001, Limited Personal Use of Government Office Equipment, Including Information Technology, and agreed to adhere to this policy while working remotely.
Records further reflected that used VA-issued BlackBerry smart-phone employment. A forensic examination of the BlackBerry revealed employment to make phone calls, send email and text messages, and track work schedule and hours worked.
Conclusion
We concluded that misused official VA time on 39 separate occasions. On 29 of the days, was absent from VA duty station without leave while working as a For remuneration while on VA sick leave. Additionally, we found 3 days that was absent from VA duty station without leave for medical incidents. While working as an another only misused VA official time, but engaged in conduct prejudicial to VA when VA tours of duty or while on VA approved sick leave. This may have potentially placed VA in a precarious position had been injured or injured someone else while performing duties.
We also found that misused VA-assigned computer, BlackBerry smart- chone, and email account in support of duties. was well aware of the requirements for requesting and using leave and of the prohibition of using VA resources in support of non-VA employment. however, chose to put private gain above the ethical standards and professional obligations associated with VA employment. past misconduct at a second applicable policies associated with Federal employment.
Moreover, as a VA employee 'faithfully discharge" the duties of respective positions. These oaths are important and significant, and by taking them, is held to a higher standard of conduct, one that continually failed to accept. Further, received sufficient ethics materials and training when first employed by VA, and more recently took VA's



Recommendation 1. We recommend that the Acting Assistant Secretary for Human Resources and Administration confer with the Offices of Human Resources (OHR) and General Counsel (OGC) to determine the appropriate administrative action to take against and ensure that action is taken.

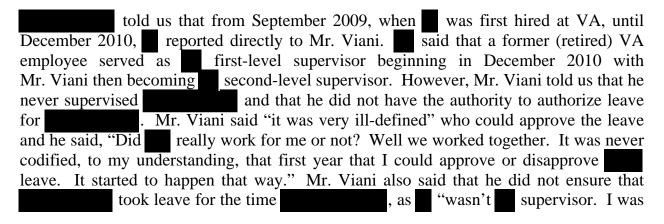
Recommendation 2. We recommend that the Acting Assistant Secretary for Human Resources and Administration determine the total salary paid to days that was AWOL from VA or worked for while on sick leave and ensure that a bill of collection is issued to for that amount, since cannot receive pay for the period of time that was absent without authorization.

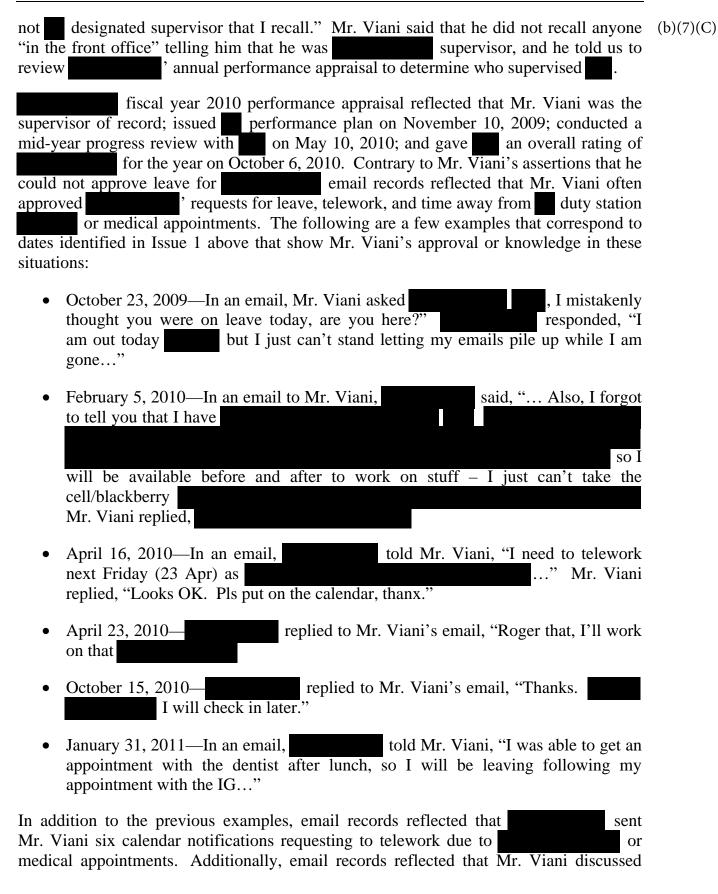
Results

Issue 2: Whether VA Management Failed to Properly Supervise

VA policy states that the public interest requires the maintenance of high standards of employee integrity, conduct, effectiveness, and service to the public and that when such standards are not met, it is essential that prompt and just corrective action be taken. VA policy is to maintain standards of conduct and efficiency that will promote the best interests of the service. VA Handbook 5021/3, Part I, Chapter 1, Paragraph 3(a) (June 1, 2005). VA policy also holds supervisors responsible for gathering and analyzing facts concerning each possible disciplinary or adverse action, documenting these facts, and for initiating appropriate and timely disciplinary or adverse actions. <u>Id.</u>, at Paragraph 5(c). VA Telework policy states that the supervisor is responsible for determining how many days per week are appropriate for a telework arrangement. VA Handbook 5011/5, Part II, Chapter 4, Paragraph 6a(3) (September 22, 2005).

Mr. Joseph Viani, Senior Executive Service



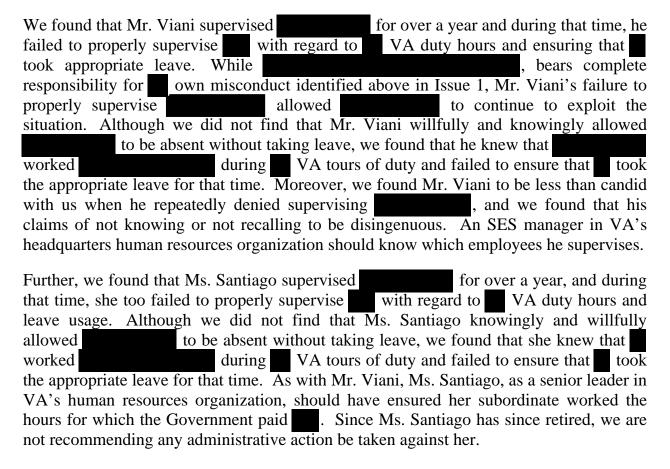


developing duty hours with stating, "you and I were supposed to sit down and work out a schedule based upon your email that you wanted to work an alternate type schedule. I believe in flexibility as you know. Let's communicate better."	
Mr. Viani told us that when was away from VA duty station, in mind's eye would have been leave," and he thought that took leave for the Mr. Viani said that it was his understanding with that when would have hopefully taken the time off." Although personnel and email records reflected that Mr. Viani had supervisory authority over throughout our questioning, Mr. Viani still denied that he supervised and continually answered our questions with "[I] don't recall" or that he "did not know."	
Mr. Viani said, "it's a guess on my part" when asked who was responsible to ensure that had a telework agreement in place. He said that he did not recall if he documented the days that performed telework and that if he had, he could not recall how he had done so. Further, Mr. Viani told us that he did not remember if he approved each day that teleworked. When asked if he knowingly allowed to work as an during VA duty hours or allowed to improperly take sick leave to cover that time, Mr. Viani said, "I don't know. I just don't recallnot that I'm aware of."	
Ms. Mary Santiago, GS-15 (Retired)	
told us that was detailed to in July 2011 and permanently assigned to that office in August 2011 and that Ms. Santiago was supervisor for the entire time. As reported in Issue 1 above, Ms. Santiago supervised on 12 of the occasions that misused VA official time, and we found no evidence of requesting, or Ms. Santiago approving leave for those dates. Further, we were unable to interview Ms. Santiago, as she retired shortly after we began this investigation and declined to be interviewed. However, email records reflected that she knew and approved of during VA duty hours. The following email examples correspond to dates identified in Issue 1 above in which misused official time and Ms. Santiago approved:	
• On Monday, August 15, 2011, told Ms. Santiago in an email, "On Friday I have my normal However I will be working and accessible other than the time that I am actuallyin the" Ms. Santiago responded, "Okay."	
• On Friday, December 09, 2011, told Ms. Santiago in an email, "I	

• On Wednesday, December 21, 2011. responded to Ms. Santiago's email, "Sorry, as I mentioned earlier,

(b)(7)(C)

Conclusion



Recommendation 3. We recommend that the Acting Assistant Secretary for Human Resources and Administration confer with OHR and OGC to determine the appropriate administrative action to take against Mr. Viani and ensure that action is taken.

Comments

The Acting Assistant Secretary for HR&A was responsive, and his comments are in Appendix A. We will follow up to ensure that the recommendations are fully implemented.

(Original signed by Joseph M. Vallowe, Deputy Assistant Inspector General for Investigations for:)

> JAMES J. O'NEILL Assistant Inspector General for Investigations

Acting Assistant Secretary Comments

Department of Veterans Affairs

Memorandum

Date: March 18, 2013

From: Acting Assistant Secretary for HR&A

Subject: Administrative Investigation, Misuse of Official Time and

Resources and Failure to Properly Supervise, HR&A,

Washington, DC

To: Director, Administrative Investigations Division (51Q)

I have reviewed the report forwarded to me concerning Misuse of Official Time as well as the supporting documents. I believe that an immediate referral for action is necessary, including an assessment of whether the information provided is sufficient to warrant disciplinary or adverse action. I met with the Director of VA's Labor and Employee Relations Office for VA Central Office to begin discussions regarding the way forward. Also, I have tasked the responsible management official with moving ahead to consider the evidence provided in the report, to conduct any necessary further inquiry to determine the appropriate action to take and to propose appropriate discipline.

With respect to the three major recommendations on page 16 of the report, I accept all three without further comment and, assuming that they do not change or are not added to the final version of the report, I intend to act quickly to implement them. I await receipt of the final report.

Rafae A. Torres

Acting

Acting Assistant Secretary's Comments to Office of Inspector General's Report

The following Acting Assistant Secretary'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 Acting Assistant Secretary for Human Resources and Administration confer with the Offices of Human Resources (OHR) and General Counsel (OGC) to determine the appropriate administrative action to take against and ensure that action is taken.

Comments:

Recommendation 2. We recommend that the Acting Assistant Secretary for Human Resources and Administration determine the total salary paid to for the 39 days that was AWOL from VA or worked for while on sick leave and ensure that a bill of collection is issued to for that amount, since cannot receive pay for the period of time that was absent without authorization.

Comments:

Recommendation 3. We recommend that the Acting Assistant Secretary for Human Resources and Administration confer with OHR and OGC to determine the appropriate administrative action to take against Mr. Viani and ensure that action is taken.

Comments:

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	Charles Millard Leanne Shelly

Appendix C

Report Distribution

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