

NATIONAL GRIEVANCE  
NG-06/12/2012

**Date:** June 13, 2012

**To:** Leslie Wiggins  
Deputy Assistant Secretary,  
Labor – Management Relations  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

**From:** Ibidun Roberts, Attorney, National Veterans Affairs Council (#53) (“NVAC”), American Federation of Government Employees (“AFGE”), AFL-CIO

**Subject:** National Grievance in the matter of the Department of Veterans Affairs (VA) conducting training and interviews in contravention of 5 U.S.C. §7114 and the MCBA.

STATEMENT OF CHARGES

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (“MCBA”), American Federation of Government Employees/National Veterans Affairs Council (“Union”) is filing this national grievance against you and all other associated Department of Veterans Affairs (“VA”) officials and/or individuals acting as agents on behalf of the VA for violations as it relates to its conducting training and interviews in contravention of 5 U.S.C. §7114 and the MCBA.

Specifically, on or about May 14-16, 2012, and continuing thereafter, the VA, by and through its representatives and/or agents, including, but not limited to, VA Office of Inspector General (“VAOIG” or “OIG”), has:

- (1) Conducted training informing bargaining unit employees that they had no rights under 5 U.S.C. §7114 during investigations conducted by VAOIG;
- (2) Physically assaulted a Union Officer who challenged portions of the training; and
- (3) Conducted interviews in the company of VA police officers in several if not all of the interviews of several employees without notice to the Union, without affording employees’ rights to Union representation, and without affording the Union an opportunity to be present and participate.

In doing so, the VA has violated the following provisions:

- (1) Sub-section (a)(2) of 5 U.S.C. §7114;
- (2) Sub-section (a)(1) of 5 U.S.C. §7116;

(3) Article 49, Section 3; and

(4) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

### **STATEMENT OF THE CASE:**

#### **I. Background**

[REDACTED], a VAOIG Resident Agent In Charge, conducted a "Crime Awareness Training" in Reno, Nevada, which spanned over three days, from May 14<sup>th</sup> – May 16<sup>th</sup>, 2012. A number of bargaining unit employees and Union officers were present at this training. On May 14<sup>th</sup>, after stating examples of crimes OIG has caught employees committing, [REDACTED] stated that employees could not ask for Union representation unless the employee had a "reasonable suspicion" that an adverse action would occur, and further, that because he would only be questioning people, the request for representation would not be reasonable.

At the meeting on May 15<sup>th</sup>, [REDACTED] showed a slide that read that there was "no requirement to notify the Union when questioning employees related to criminal investigations." Another slide read that "any employee that states that OIG must notify the Union of representation rights before the meeting is incorrect." A Union Officer informed those present at the training that "OIG is an agent of the VA and therefore was required to notify the Union of these investigations" and that he had a "Supreme Court Case to that effect." After the training concluded, [REDACTED] verbally confronted the Union Officer which escalated into a physical confrontation where Lore grabbed the Union Officer's arm and pushed him into the wall. The Union Officer filed complaints with the Reno police, VA Police, and the VAOIG.

Thereafter, VA Police began an investigation into the physical incident. Officer [REDACTED] contacted several employees that attended the training and requested an interview. A VAOIG Agent from DC, [REDACTED], came to Reno and actively participated in the interviews set up by Officer [REDACTED] Deputy Chief [REDACTED] also participated in the interviews. The Union was not notified that VA Police or OIG had or would be conducting interviews. When a Union Officer inquired about the lack of notice to the Union, Mr. [REDACTED] stated that notice to the Union is not required for OIG investigations. To date, several employees have been interviewed by VA police and/or OIG in connection with this physical incident.

#### **II. Violation**

The content of the May 14-16 training unlawfully intimidates bargaining unit members from invoking their rights during an investigatory interview conducted by VAOIG. [REDACTED]'s physical assault against the Union Official unlawfully interferes with the Union's exercise of rights protected by Sub-section (a)(1) of 5 U.S.C. §7116. The interviews conducted following the physical altercation unlawfully and in contravention of the MCBA deprived the Union and bargaining unit members of their rights as required under Sub-section (a)(2) of 5 U.S.C. §7114 and Article 49 Section 3 of the MCBA.

### **III. Remedy Requested**

The Union asks that to remedy the above situation, the VA agrees to the following:

- (1) To issue a joint statement in accordance with FLRA guidelines to all sites that received the Crime Prevention Training within the past twelve months;
- (2) Nationwide posting that VA, including VAOIG, recognizes and intends to fulfill its obligations under 5 U.S.C. §7114 and the MCBA; and
- (3) To agree to any and all other remedies appropriate in this matter.

### **IV. Time Frame and Contact**

This is a National Grievance and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions regarding this National Grievance, please feel free to contact me at (202) 480-0064.



Ibidun Roberts  
Attorney  
AFGE/NVAC

Cc: Alma L. Lee, President, AFGE/NVAC  
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC