

NATIONAL GRIEVANCE

Date: December 1, 2009

To: Scott Holliday, Acting Deputy Assistant Secretary, Labor Management Relations,  
Department of Veterans Affairs (VA)

Cc: John Beatty- Director of Safety and Technical Services/VHA

Cc: Frank Denny – Director of Occupational Health and Technical Services

Cc: Larry Bennett- Office of Labor Relations/Veteran Administration

Re: Safety regulations involving more than one Police Cadet at more than one facility.

From: Bill Wetmore, <sup>Wetmore</sup>Chair, Grievance and Arbitration Committee, National Veterans  
Affairs Council, #53 (NVAC), American Federation of Government Employees (AFGE)

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1. This is a National Grievance pursuant to Article 42, Section 11 of the Master Agreement between VA and AFGE, effective March 21, 1997 (MCBA).
  2. The essence of this matter is the failure of the Department to take samples and subsequently provide written notice to affected police cadets, in compliance with Occupational Safety and Health Administration (OSHA) regulations. Additionally, this grievance encompasses a failure of the Department to provide the union with information (a copy of the actual lead and swipe samples) which is or ought to be "routinely maintained" by the Department.
  3. On or about October 5, 2009, AFGE National Health and Safety Representative and First Executive Vice President MJ Burke sent the Director of Safety and Technical Services, John Beatty, two separate information requests under the provisions of 5 US 7114(b) (4) asking for true written copies of all results, including sampling and testing procedures, utilized for detecting lead or noise exposure at the VA Law Enforcement Academy (LETC) in Little Rock. Additionally, AFGE/NVAC also asked for a copy of the letter that was sent or was being directed to be sent to potentially exposed police cadets in compliance with lead standard. It is the AFGE/NVAC understanding that sometime prior to May 5, 2009, for a minimum of two years, the Law Enforcement Training Center (LETC) started a practice of requiring and directing a variety of police cadets from across the nation to dry sweep and shoot lead bullets without proper safety protocols and environmental controls in place at the LETC. From AFGE/NVAC point of view, this practice affected multiple police cadets from a variety of locations. This issue has been elevated to the National level.
  4. On or about October 26, 2009, Robert Anderson, Deputy Director of the LETC, e-mailed MJ Burke as a result of above information request and reported that; "*No notification has been sent because the results were well below permissible exposure limits.*"

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5. Additionally, on or about November 6, 2009, Anderson e-mailed and responded back to MJ Burke in regards to the query of the actual lead air monitoring and swipe results test. *"Please contact OSHA."*

6. VA has a responsibility to actually provide the results of the samples and tests to the union as requested, and in turn follow the provisions of 1910.1035(d)(5) or the provisions of 1910.1025(d)(8)(ii). Further in accordance with Article 28, Article 2 and Article 46, NVAC believes that this response is insufficient.

7. As reminder, 1910.1025(d) (2) notes; *Initial determination. Each employer who has a workplace or work operation covered by this standard shall determine if any employee may be exposed to lead at or above the action level.*

8. Similarly, 1910.1025(d) (3) (i) notes; *The employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the follow relevant considerations.*

Remedies:

1. Demonstrate compliance with 1910.1035(d) (5) and 1910.1025(d) (8) (ii) by providing the union with names and locations of those potentially exposed police cadets and the expected communication to these individuals.
2. Provide National union with actual written copies of the monitoring tests and samples/methods including noise and lead air, when the employees were not utilizing a respirator.
3. take any and all such other actions or actions as shall under the circumstances and applicable provisions, law, regulations and rules result in any and all affected employees being made whole.