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BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
U.S. HOUSE OF REPRESENTATIVES**

**“BACKGROUND CHECKS: ARE VA’S HR FAILURES RISKING
DRUG ABUSE AND VETERAN HARM?”**

DECEMBER 6, 2023

Good afternoon, Chairwoman Kiggans, Ranking Member Mrvan and Members of the Subcommittee. Thank you for the opportunity to discuss the Department of Veterans Affairs (VA) Human Resources (HR) and Background Investigation processes. I am accompanied today by Jessica Bonjorni, Chief, Human Capital Management, Veterans Health Administration (VHA).

VA recognizes that rigorous personnel security and suitability protocols for its health care workforce are vital to maintaining the trust of Veterans, Veteran families, and VA employees in its health care delivery system. VA’s background investigation processes for all employees aligns with 5 C.F.R. Part 731 and guidelines established by the Office of Personnel Management (OPM).

Suitability Processes

Pre-employment screening for Federal employees to determine suitability for employment generally begins once a tentative job offer is made. At this stage, self-declared information and available criminal history are reviewed. Once an applicant has a favorable screening, a background investigation is initiated at the appropriate level for the position.

Suitability determinations involve a review of the person’s character or conduct that may have an impact on the integrity or efficiency of the service. Once a completed background investigation is sent from Defense Counterintelligence and Security Agency (DCSA) to VA and a trained suitability adjudicator makes a final determination. This determination considers whether the individual has the appropriate character and conduct for Federal employment in the position sought.

The Office of Human Resources and Administration/Operations, Security and Preparedness (HRA/OSP) sets VA enterprise policy and has oversight over background investigations processed for VA employees. VA Administrations (VHA, Veterans Benefits Administration and National Cemetery Administration) are responsible for

following VA policy when processing background investigations to ensure the safety of Veterans, employees and visitors. Achievement of the investigative requirements is verified during VA information technology account provisioning and Personal Identity Verification badge issuance.

Background investigations for Federal employees should be initiated before appointment but no later than 14 calendar days after placement in the position. VA uses the same standard for contractors. A final suitability decision is made after the conclusion of the background investigation by the Defense Counterintelligence and Security Agency (DCSA) and in accordance with 5 C.F.R. part 731, must be reported to the government-wide reciprocity system no later than 90 days after the investigation is completed.

Issues discovered during the pre-employment screening process are forwarded to a trained adjudicator for review and appropriate action. If the adjudicator cannot mitigate the issues found during the pre-employment screening process, the VA HR Onboarding Point-of-Contact (POC) may decide to withdraw the offer.

Qualification issues, to include U.S. Drug Enforcement Administration (DEA) registration, are also identified by VA's credentialing POC and communicated to the HR POC to determine the appropriate follow-up action.

Similarly, issues discovered during the background investigation process are forwarded to a trained adjudicator for review and appropriate action¹. If the adjudicator cannot mitigate the identified issues, a decision of unsuitable may be rendered. The adjudicator will determine if a suitability action or action under another applicable authority may be appropriate. The decision on which authority may be applied may take into account the length of time on the job and the seriousness of the issues.

When issues are discovered after a person is hired, such as when an alert is received by VA from DCSA Continuous Vetting products updated criminal history information), these alerts are reviewed by a trained adjudicator². As appropriate, Employee Relations and Labor Relations may initiate appropriate adverse action on employees. In response to GAO Audit (#23-104296) VA, under HRA/OSP guidance, developed a RAP BACK action plan that includes development of control procedures and any other action that must be completed to ensure RAP BACK notifications are routed and resolved appropriately.

Efforts to improve VA's Personnel Security and Suitability Program

In late 2020, VA established working groups and Integrated Project Teams (IPT) to review the processes used within VA to initiate background investigations and the subsequent adjudication by VA staff of those investigations. The IPTs identified process enhancements that were implemented to mitigate weaknesses and inconsistencies in

¹ 5 C.F.R. Part 731, Office of Personnel Management, <https://www.ecfr.gov/current/title-5/part-731>

² 5 C.F.R. Part 731, Office of Personnel Management, <https://www.ecfr.gov/current/title-5/part-731>

how background investigations were adjudicated by VA's adjudicators. The findings from the Fiscal Year 2022 Federal Information Security Management Act (FISMA) audit determined that VA has made and continues to make progress, and continued focus is needed to processing address the improvements identified in the audit. VA is continuing to update [?] our corrective action plans to resolve issues identified in the FISMA audit reports.

VA is also addressing how to improve governance of the personnel suitability program as identified in VA Office of Inspector General (OIG) Audit Report 21-03718-189, dated September 21, 2023. HRA/OSP is leading the development of a VA-wide plan with actions and milestones to increase oversight of VA's personnel security and suitability program, identify roles and responsibilities, review and update oversight processes as well as verify that background investigations are initiated and adjudicated within prescribed timelines and that documentation is filed as required. VHA completed a personnel security oversight and compliance pilot on October 31, 2023, to test guidelines and job aids to enhance VHA Personnel Security programs. Those guidelines and job aids are being refined for deployment across VHA through March 2024. This more structured approach to oversight and compliance will be supported through a new Personnel Security staffing model recently published for Veterans Integrated Service Networks and other VHA offices to implement.

In partnership with HRA/OSP, the Administrations will also develop plans to establish robust oversight of their personnel suitability programs. HRA/OSP will integrate these plans into the VA-wide plan. The plan will include the actions and resources required by HRA/OSP and the Administrations to reimplement the monitoring program required by VA Handbook 0710 on the personnel vetting program. It will also identify, prevent, and mitigate any systemic areas of improvement in the personnel suitability program. The plan will be submitted to OIG by December 31, 2023.

VA's Rehabilitation Program

VA emphasizes the importance of finding a balance in our mission to provide world-class health care to Veterans and our mission to support the rehabilitation of Veterans who have had complex histories including substance abuse. For example, VA's Compensated Work Therapy (CWT) program is a clinical vocational rehabilitation program offered at every VA medical center. CWT provides Veterans with evidence-based vocational rehabilitation services. These services include partnerships with business, industry and Government agencies to provide Veteran candidates with employment.

To be considered for participation in the CWT program, a Veteran must be eligible to receive VA health care services, have a goal of returning to competitive employment and have experienced barriers to obtaining and/or retaining employment, which requires the intensive supports provided by one of the CWT service components. There are numerous success stories of the CWT program, including Veterans who graduated from VA's CWT program to become full-time employees at VA medical

centers or as cemetery caretakers, and employers have realized the benefits of hiring Veterans from the program.

VA seeks to hire Veterans who have rehabilitated on their own or through structured VA programs, including the 52,000 Veterans VA serves annually through the CWT program. Enhancing Veteran readiness for re-employment and successful reintegration back into the workforce balances VHA care delivery with our mission to rehabilitate Veterans, including those with histories of substance use, or prior criminal history. In the event a CWT program participant is offered employment at VA at the conclusion of their therapy, these Veterans are subject to the same suitability requirements as other VA employees.

Conclusion

Madam Chair and Members of the Subcommittee, thank you for the opportunity to share more information on VA's background investigation and HR processes and how VA helps protect Veterans. Our objective is to give the Nation's Veterans the top-quality care they have earned and deserve by carefully and thoroughly vetting all personnel who will interact with Veterans, their families, and others at VA. We appreciate this Subcommittee's continued support and encouragement.

This concludes my testimony. Ms. Bonjorni and I are prepared to respond to any questions you may have.