



# NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

## NATIONAL GRIEVANCE

NG-11/27/23

**Date:** November 27, 2023

**To:** Denise Biaggi-Ayer, Executive Director  
Office of Labor-Management Relations  
U.S. Department of Veterans Affairs  
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*Sent via electronic mail only*

**From:** Lynn Alexis, Staff Counsel, National Veterans Affairs Council (#53) “NVAC”), American Federation of Government Employees, AFL-CIO (“AFGE”)

**RE:** National Grievance against the Department of Veterans Affairs for its Failure to Maintain Police Officer Presence 24/7 in the Emergency Departments

## STATEMENT OF THE CHARGE

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 (2023) (“MCBA”), American Federation of Government Employees/National Veterans Affairs Council (“NVAC” or “the Union”) is filing this National Grievance against you and all other associated officials and/or individuals acting as agents on behalf of the Department of Veterans Affairs (“Department” or “VA”) for violations regarding the Department’s failure to maintain police officer coverage within the Emergency Department of various VA Medical Centers and its failure to provide notice and an opportunity to bargain over such unilateral, unlawful, changes in conditions of employment. To date, the Department has failed to remedy this violation, and as such, continues to violate the parties’ MCBA and federal law.

Specifically, the Department violated Articles 2, 3, and 49 of the MCBA; 5 U.S.C. § 7116(a)(1) and (5), (the “Statute”); VA Directive 0731 (2022), VA Directive 0730 (2012), and any and all other relevant laws regulations, Master Agreement provisions, and past practices not herein specified. The Union specifically reserves the right to supplement this grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

## STATEMENT OF THE CASE

### **Background**

Historically, VA has had 24/7 police officer coverage in its emergency departments, as also required by VA Directive 0731 (2022). Namely, pursuant to VA Directive 0731 (2022) ¶2a, facility directors must **ensure and establish 24/7 law enforcement presence, 365 days a year, specifically, within VHA Emergency Departments, with a static post.** (Emphasis Added). Similarly, VA Directive 0730 (2012) ¶2a(3) requires that each VA field facility or division will have sufficient number of VA police officers on duty, at all times, necessary to maintain law and order and to provide protection of persons and property throughout the facility. Upon information and belief, the VA has not complied with this practice, and in part, has unilaterally ceased this practice in several VA facilities and has done so, without notice and an opportunity to bargain with the union, in violation of Article 49, Section 4A of the MCBA and in violation of Section 7116 (a)(1) and (5) of the Statute. In addition, by violating its own policies as codified by federal law, VA is in further violation of Article 2 of the MCBA, which requires VA's compliance thereof.

Currently, there is no 24/7 law enforcement coverage in the Emergency Departments including but not limited to the following areas and VA medical center facilities, affecting various AFGE Locals: in the Greater Los Angeles, Loma Linda, CA, Palo Alto, CA, Reno, NV, Boise, ID, Gainesville, FL, Salisbury, NC, and Topeka, KS. It is the VA's responsibility to commit to its obligation of providing a safe and secure environment for Veterans, employees, and visitors of VA property. Without the required police force presence, there is an imminent safety concern, particularly with respect to the bargaining unit members. Further, pursuant to VA's failure to ensure adequate police staffing 24/7, it has indirectly deprived bargaining unit employees of their potential and ability to earn pay, additional overtime, and/ or premium pay otherwise authorized by law, to include but not limited to 5 U.S.C. Section 5545a and 5 CFR Section 550.181, and/ or any benefit otherwise afforded to bargaining unit members, including those pursuant to the overtime provision(s) of Article 23, Section 4.

Additionally, VA's actions constitute a violation of Article 3, which encourages the parties to maintain a cooperative labor-management relationship that is based on mutual respect, open communication, consideration of each other's views, and minimizing collective bargaining disputes. By failing to notify, consult, and negotiate with the Union prior to terminating 24/7 police coverage, the VA, renounced its commitments under Article 3 of the MCBA.

### **Violations**

By failing to fulfill its obligations, the Department violated and continues to violate, the following:

- Article 2 of the MCBA: requiring the Department to comply with federal law and regulations, to include but not limited to VA Directives specified herein;
- Article 3 of the MCBA: requiring the parties to promote effective labor-management relationships by using cooperative methods in an effort to fulfill their collective bargaining obligations;
- Article 49 of the MCBA: which sets forth the Department's obligation to provide advance written notice to the Union of changes in personnel policies, practices, or working

- conditions;
- 5 U.S.C. § 7116: requiring the Department to provide adequate notice of proposed changes in conditions of employment involving AFGE bargaining unit employees, and providing the Union an opportunity to bargain prior to implementing such changes; and
  - VA Directives 0730 and 0731: requiring 24/7 law enforcement coverage in the Emergency Departments;
  - Any and all other relevant laws, regulations, customs, Master Agreement provisions and past practices not herein specified.

## Remedies Requested

The Union asks that, to remedy the above situation, the Department agree to the following:

- Establish 24/7 law enforcement presence in VHA Emergency Departments;
- Cease and desist any change in bargaining unit posts by terminating 24/7 police officer presence;
- To properly notify NVAC and provide an opportunity to bargain over any proposed changes in working conditions;
- To fully comply with its contractual obligations under Articles 2, 3, and 49 of the MCBA and its statutory obligations under 5 U.S.C. § 7116;
- To distribute an electronic notice posting to all bargaining unit employees concerning the Department's failure to properly provide 24/7 police coverage within Emergency Departments;
- To make whole any bargaining unit employee affected by the Department's violations in any manner, to include but not limited to restoration/reimbursement of any entitlement not limited to, leave, compensation time, overtime, or premium pay;
- Agree to comply with any and all other relevant laws, regulations, customs, Master Agreement provisions, MOUs, and past practices not herein specified;
- Agree to pay reasonable attorney's fees; and
- Agree to any and all other appropriate remedies in this matter.

## 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, please contact the undersigned at the AFGE Office of the General Counsel.

Submitted by,

*Lynn Alexis*

Lynn Alexis, Esq.

Staff Counsel, National VA Council

Office of the General Counsel

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Kurt Martin, Deputy Director, Office of Labor-Management Relations