



DEPARTMENT OF VETERANS AFFAIRS
VA Great Lakes Health Care System
500 E. Veterans Street
Tomah, WI 54660

April 7, 2016

FOIA Request No.: 16-01636-F

Benjamin Krause
Armo Press, LLC
PO Box 8221
Minneapolis, MN 55408

Dear Mr. Krause:

This letter is the initial agency decision on your November 26, 2015 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to the Tomah VAMC for "any and all copies of surveillance video, investigation reports and all other documentation concerning a video of a patient being abused by a CNA with the initials "J.S." on 403B. According to an anonymous letter, the event occurred on November 10, 2015 and the Tomah VAMC police pulled a video of the incident for the nurse coordinator to review."

The VA Medical Center conducted a search and from that search provided the enclosed twelve (12) pages of Uniform Office Reports (police reports) and associated video that are responsive to your request. However, all information compiled for law enforcement purposes which, if disclosed, could reasonably be expected to constitute an unwarranted invasion of personal privacy have been withheld under FOIA Exemption 7C, [5 U.S.C. § 552 (b)(7)(C)] and FOIA Exemption 6, [5 U.S.C. § 552(b)(6)].

Upon review of the responsive record, portions of the police report have been withheld under FOIA exemption 7(C), 5 U.S.C. § 552 (b)(7)(C), which permits VA to withhold a document or information in a document if the Agency compiled the document for a law enforcement purpose and if disclosure of the information could be reasonably expected to constitute an unwarranted invasion of a living individual's personal privacy. Stated another way, VA may withhold information under exemption 7(C) where there is a reasonable likelihood that disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, could result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the Federal government. This exemption continues to apply to information after completion or cessation of the law enforcement activity in which the information was gathered.

Specifically, the names of victims, witnesses, suspects, employees, Veteran Affairs Office of Inspector General (VAOIG) contacts, Office of Security and Law Enforcement (OS & LE) contact and union representations names were withheld. Also, gender,

driver's license numbers, license state, ethnicity, age, weight, hair color, eye color, skin tone, building numbers, room numbers, home address, home phone, violation numbers, dates of birth, social security numbers, email address, and camera IP addresses were redacted, which if disclosed, would constitute an unwarranted invasion of an individual's personal privacy. An individual associated with this information has a personal privacy interest in it, particularly when held in records compiled for law enforcement purposes, as in this case. Further, upon consideration of the matter generally in association with the materials that you submitted, we have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. Consequently, VHA denies your request for this information under FOIA Exemption 7(C), 5 U.S.C. § 552 (b)(7)(C).

In addition, I am withholding names of victims, witnesses, suspects, employees, VAOIG contacts, OS & LE contact and union representations names. Also, gender, driver's license numbers, license state, ethnicity, age, weight, hair color, eye color, skin tone, building numbers, room numbers, home address, home phone, violation numbers, dates of birth, social security numbers, email address, and camera IP addresses were redacted, which if disclosed, would constitute a clearly unwarranted invasion of an individual's personal privacy under FOIA Exemption 6, [5 U.S.C. § 552(b)(6)]. Furthermore, the video of the incident has been blurred and faces have been blocked out to ensure the privacy of those involved. Six pages of witness statements have been withheld in full since they could be considered identifying, but all information has been incorporated into the provide police report.

FOIA Exemption 6 permits VA to withhold information within a document if disclosure of the information would constitute a clearly unwarranted invasion of a living individual's personal privacy. Stated another way, VA may withhold information under Exemption 6 where disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government.

The individuals associated with this information have a personal privacy interest in it. Further, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. I cannot identify how the release of this information will contribute significantly to the public's understanding of the operations and administration of VHA. Consequently, your request for this information is denied under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6).

If you disagree with my determination to withhold the information under FOIA Exemption 7 and Exemption 6 response, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

If you should choose to file an appeal, your appeal must be postmarked no later than sixty (60) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response. If you have any further questions, please call 608-372-3971, extension 66732.

Sincerely,


Shai Sims Brown
Tomah VA Privacy/FOIA Officer

Department of Veterans Affairs
VA Police
Tomah
Investigative Report

NOV 30 2015

(b) (6), (b) (7)(C)

Investigative Report#: 2015-11-12-0745-9423

VA Facility: Tomah

Date/Time Printed 11/21/2015 12:47

This Document is to be handled in accordance with the Privacy Act

Contents shall not be disclosed, discussed, or shared with individuals unless they have a direct need-to-know in the performance of their official duties. The document(s) are to be handled in accordance with For Official Use Only procedures.

Date/Time Received	11/12/15 07:45 AM
Date/Time of Offense:	11/10/15 19:10 PM
Location:	Building (b) (6), (b) (7)(C) Ward, Dayroom
Investigating Officer	(b) (6), (b) (7)(C)
Incident Synopsis:	Veterans Affairs (VA) Police received a complaint about an inpatient Veteran yelling at and insulting staff members on the Building (b) (6), (b) (7)(C) Ward. The Veteran was counseled for his behavior, and the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) informed of the incident. No injuries were reported from the incident.
Classification Code:	38 CFR 1.218 (11) Disorderly conduct which creates loud Disorderly Conduct in Facility, on Property or Grounds, or Public conveyances, € Non-Criminal Information(F) Non-Criminal Staff Assist(F)
Final Disposition:	Initial Investigation completed
Case Status:	CLOSED

Use of Force

OC Weapon used:	No
Baton Used:	No
Firearm Drawn:	No
Firearm Used:	No

Complainant

Name:	UNITED STATES GOVERNMENT
Status:	
Work Address	N/A N/A N/A, US
Work Phone	
Statement	No written statement taken.

Victim

Name:	(b) (6), (b) (7)(C)	Ethnicity:	(b) (6), (b) (7)(C)
Gender:	(b) (6), (b) (7)(C)		
Status:	Employee - Clinical		
Driver's License:	(b) (6), (b) (7)(C)	State:	(b) (6), (b) (7)(C)
Work Address:	500 E Veterans Building (b) (6), (b) (7)(C) Tomah, WI 54660		
Work Phone:	6083723971		
Treatment:	No		
Name:	(b) (6), (b) (7)(C)	Ethnicity:	(b) (6), (b) (7)(C)
Gender:	(b) (6), (b) (7)(C)		
Status:	Patient		

Facility: Tomah (b) (6), (b) (7)(C) IR#: 2015-11-12-0745-9423
Driver's License: (b) (6), (b) (7)(C) State: (b) (6), (b) (7)(C)
Work Address: N.A
N/A,

Work Phone:
Treatment: No

Suspect

Name: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
SSN: (b) (6), (b) (7)(C) DOB: (b) (6), (b) (7)(C) Age: (b) (6), (b) (7)(C)
Gender: (b) (6), (b) (7)(C) Ethnicity: (b) (6), (b) (7)(C) Height: (b) (6), (b) (7)(C)
Weight: (b) (6), (b) (7)(C) Hair Color: (b) (6), (b) (7)(C) Eye Color: (b) (6), (b) (7)(C)
Skin Tone: (b) (6), (b) (7)(C) Mark:
Status: Employee - Clinical
Driver's License Number: (b) (6), (b) (7)(C) License State: (b) (6), (b) (7)(C)
Home Address: (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

Home Phone: (b) (6), (b) (7)(C)
Work Address: 500 E Veterans
Building (b) (6), (b) (7)(C)
Tomah WI 54660

Work Phone: 6083723971

Offense(s): Disorderly Conduct: Disorderly Conduct in Facility, on Property or Grounds, or Public conveyances, etc.
(F).Non-Criminal: Staff Assist(F).Non-Criminal: Information(F).38 CFR 1.218: (11) Disorderly conduct which creates

Violation(s): (b) (6), (b) (7)(C)

Name: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
DOB: (b) (6), (b) (7)(C) Age: (b) (6), (b) (7)(C)
Gender: (b) (6), (b) (7)(C) Ethnicity: (b) (6), (b) (7)(C) Height: (b) (6), (b) (7)(C)
Weight: (b) (6), (b) (7)(C) Hair Color: (b) (6), (b) (7)(C) Eye Color: (b) (6), (b) (7)(C)
Skin Tone: (b) (6), (b) (7)(C) Mark:
Status: Patient
Driver's License Number: (b) (6), (b) (7)(C) License State: (b) (6), (b) (7)(C)
Home Address: Ward (b) (6), (b) (7)(C) Tomah VAMC
500 East Veterans Street
Tomah, WI 54660

Home Phone: (b) (6), (b) (7)(C)

Work Address: N.A
N/A

Work Phone:

Offense(s): Disorderly Conduct: Disorderly Conduct in Facility, on Property or Grounds, or Public conveyances, etc.
(F).Non-Criminal: Staff Assist(F).Non-Criminal: Information(F)

Violation(s):

Witness

Facility: Tomah

IR#: 2015-11-12-0745-9423

Name: (b) (6), (b) (7)(C)

Work Address: Building (b) (6), (b) (7)(C)
500 E Veterans St
Tomah, WI 54660

Work Phone: 6083723971

Statement: No written statement taken.

Notification

Agency: VAOIG

Contact: (b) (6), (b) (7)(C)

Date & Time of Notification: 11/19/15 2150

Instructions Received: (b) (6), (b) (7)(C) was informed of the incident through a telephone call by Officer (b) (6), (b) (7)(C)

Agency: OS & LE

Contact: (b) (6), (b) (7)(C)

Date & Time of Notification: 11/19/15 2145

Instructions Received: (b) (6), (b) (7)(C) was informed of the incident through a telephone call and an e-mail by Officer (b) (6), (b) (7)(C)

Narrative

Origin On November 12, 2015, at approximately 0745 hours, I (Officer (b) (6), (b) (7)(C)) received an e-mail from (b) (6), (b) (7)(C) in reference to inpatient Veteran (b) (6), (b) (7)(C) being loud and threatening towards (b) (6), (b) (7)(C) during an incident occurring on November 10, 2015, at approximately 1910 hours in the Building (b) (6), (b) (7)(C) Ward Dayroom (b) (6), (b) (7)(C).

Initial Observation None.

Investigation At approximately 0830 hours, I spoke with (b) (6), (b) (7)(C) in the Building (b) (6), (b) (7)(C) dining area about the incident. (b) (6), (b) (7)(C) did not recall any specific times or dates from the incident, and declined any involvement making the comment, "I didn't do nothing." (b) (6), (b) (7)(C) stated (b) (6), (b) (7)(C) is always going into his room when he is not in there, and would like the VA Police to speak to him about this issue. (b) (6), (b) (7)(C) was counseled about his disruptive behavior, and was just warned due (b) (6), (b) (7)(C) status. (b) (6), (b) (7)(C) stated he did not have any injuries from the altercation. I then cleared from speaking to (b) (6), (b) (7)(C)

I attempted to contact Building (b) (6), (b) (7)(C) at telephone extension (b) (6), (b) (7)(C) without success. I left a voicemail explaining the situation, and if she had any questions to let me know.

No injuries were reported according to the e-mail from (b) (6), (b) (7)(C)

I conducted a wants and warrants check of all parties involved, which revealed negative results.

The case is closed pending speaking to (b) (6), (b) (7)(C) about the incident at a later time and date. The case was referred to the VA Police nightshift crews for further follow-up, due to (b) (6), (b) (7)(C) not working on my shift.

Investigating Officer: (b) (6), (b) (7)(C) Signature: (b) (6), (b) (7)(C)

Badge: (b) (6), (b) (7)(C) Date: 11/19/2015

Printed by: (b) (6), (b) (7)(C)

<< End of Report >>

Department of Veterans Affairs
VA Police

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C)

On November 18, 2015, at approximately 1805 hours, I (Officer (b) (6), (b) (7)(C)) received an electronic mail (email) from Officer (b) (6), (b) (7)(C). In the email, Officer (b) (6), (b) (7) asked me to follow up with staff (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and patient (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) had an altercation on November 10, 2015 at around 1910 hours, in Building (b) (6), (b) (7)(C) dayroom (b) (6), (b) (7)(C)).

On November 18, at around 2145 hours, I met with (b) (6), (b) (7) in dayroom (b) (6), (b) (7)(C) to discuss the incident. (b) (6), (b) (7) told me he was helping another patient retrieve a snack from the refrigerator in dayroom (b) (6), (b) (7)(C) when (b) (6), (b) (7) came into the room insisting he get his snack now. (b) (6), (b) (7) then told (b) (6), (b) (7) to wait his turn. (b) (6), (b) (7) responded and said "Fuck You" posturing towards (b) (6), (b) (7) backing him into the corner of the room near the refrigerator as if to hit him. (b) (6), (b) (7) stated (b) (6), (b) (7) said "I will slam you. Then I'm going to end you."

(b) (6), (b) (7) then said he lightly pushed (b) (6), (b) (7) towards the hallway and told him to go to his room. (b) (6), (b) (7) told me, (b) (6), (b) (7) grabbed his wrists as he pushed him. (b) (6), (b) (7) said he was not hurt during the incident. (b) (6), (b) (7) returned to his room (b) (6), (b) (7)(C), complaining to another staff member on the way, (b) (6), (b) (7) wouldn't give him his snack. (b) (6), (b) (7) stayed in his room the remainder of the night with no further issues.

Upon returning to Building 407 (room#1714), VA Police (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and I looked at the VA Police cameras (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)). We observed (b) (6), (b) (7) entering the dayroom at around 1908 hours, and (b) (6), (b) (7) pushed him back towards the hallway and pointed for him to leave the room. The incident lasts less than a minute. Staff (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) is observed watching the incident take place in dayroom (b) (6), (b) (7)(C)).

I will speak with (b) (6), (b) (7) about the incident at a later time and date for more information on the incident.

Signed by: _____

Date: 11/23/2015

Department of Veterans Affairs
VA Police

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C)

On November 19, 2015, at approximately 2130 hours, I (Officer (b) (6), (b) (7)(C)) met with (b) (6), (b) (7)(C) and reviewed the camera footage from the incident on November 10, 2015 to make him aware of the incident with staff (b) (6), (b) (7)(C) and patient (b) (6), (b) (7)(C).

I notified Department of Veteran Affairs Office of Security and Law Enforcement (OSLE) Duty Agent at around 2145 hours, at phone number (b) (6), (b) (7)(C) and electronic mail (email) (b) (6), (b) (7)(C). OSLE requested a summary of the incident when it is complete. I then notified Office of Inspector General (OIG) at phone number (b) (6), (b) (7)(C) and email (b) (6), (b) (7)(C) to inform them of the incident.

At approximately 2150 hours, (b) (6), (b) (7)(C) requested my assistance as he talked with (b) (6), (b) (7)(C) on Building (b) (6), (b) (7)(C) ward (dayroom (b) (6), (b) (7)(C) explained to (b) (6), (b) (7)(C) he will not be allowed to have any contact with patients until management reviews the camera footage and decides how to handle the incident. (b) (6), (b) (7)(C) requested to use annual leave and left the facility at around 2200 hours.

Shortly after, I interviewed staff (b) (6), (b) (7)(C) on Building (b) (6), (b) (7)(C) ward (b) (6), (b) (7)(C). From watching the camera footage of the incident, (b) (6), (b) (7)(C) was observed in the dayroom watching the incident as it happened. I had (b) (6), (b) (7)(C) complete a Voluntary Witness Statement in my presence.

(b) (6), (b) (7)(C) wrote in the statement: (b) (6), (b) (7)(C) was taking vitals and (b) (6), (b) (7)(C) came down for a snack. (b) (6), (b) (7)(C) was handing out snacks. (b) (6), (b) (7)(C) demanded his snack. (b) (6), (b) (7)(C) said, "Wait a minute I'm helping someone right now." (b) (6), (b) (7)(C) walked towards (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) pointed for (b) (6), (b) (7)(C) to go to his room. (b) (6), (b) (7)(C) grabbed his wrist. (b) (6), (b) (7)(C) said again go to your room. Then (b) (6), (b) (7)(C) went to his room.

(b) (6), (b) (7)(C) told me she doesn't remember exactly what was said because it was so (b) (6), (b) (7)(C) ago.

This information will be given to initial Investigating Officer (b) (6), (b) (7)(C) for his review.

Attachments:

- Voluntary Witness Statement completed by (b) (6), (b) (7)(C)
- Statement of Employee Rights and Obligations form completed by (b) (6), (b) (7)(C)

Signed by: _____

Date: 12/13/2015

[Handwritten signature]

Department of Veterans Affairs
VA Police

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C)

On November 20, 2015 at approximately 1530 hours, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) arrived at the Veterans Affairs (VA) Police Office located in Building 407 Room 1709 with Union Representative (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Officer (b) (6), (b) (7)(C) requested me (Officer (b) (6), (b) (7)(C)) to jointly interview (b) (6), (b) (7) about alleged patient abuse involving Veteran (b) (6), (b) (7) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Earlier, I had reviewed camera footage of the incident utilizing the camera labeled (b) (6), (b) (7)(C) from 1900 hours to approximately 1930 hours. In the footage, I observed (b) (6), (b) (7) extend his left arm and strike (b) (6), (b) (7) in the chest area. (b) (6), (b) (7) had his arms held loosely to his side and was standing in a passive stance. (b) (6), (b) (7) then appears to push (b) (6), (b) (7) with both arms extended and continue to pursue (b) (6), (b) (7) a few steps forward. (b) (6), (b) (7) then attempted to block (b) (6), (b) (7) and pushed his arms away. (b) (6), (b) (7) also can be seen bumping his chest into (b) (6), (b) (7)(C) From the footage I was able to determine (b) (6), (b) (7) as the aggressor, contradicting an earlier Voluntary Witness Statement he had provided to Officer (b) (6), (b) (7)

Myself and Officer (b) (6), (b) (7) then entered the VA Police Interview Room #1715. (b) (6), (b) (7) was seated nearest the exit with (b) (6), (b) (7) on (b) (6), (b) (7)(C) left side. I was seated to (b) (6), (b) (7) right side and Officer (b) (6), (b) (7) was seated facing (b) (6), (b) (7) across the table. I asked (b) (6), (b) (7) for his permission to close the door to the Interview Room for privacy to which he agreed. Officer (b) (6), (b) (7) then explained to (b) (6), (b) (7) he was free to leave at any point during the interview and could stop the interview at any time he wished. (b) (6), (b) (7) stated he understood and agreed to be interviewed. Officer (b) (6), (b) (7) then asked (b) (6), (b) (7) to explain the incident involving (b) (6), (b) (7) on November 10, 2015. (b) (6), (b) (7) stated (b) (6), (b) (7) had become upset about not receiving a snack before other Veterans. According to (b) (6), (b) (7) (b) (6), (b) (7) then attempted to intimidate (b) (6), (b) (7) by "putting him in a corner." (b) (6), (b) (7) then stated, "I attempted to use my PMDB (Preventative Management of Disruptive Behavior) skills verbally but he kept trying to put me in the corner. I then placed my hand on his chest and (b) (6), (b) (7) grabbed both of my wrists and pulled me toward him." I then informed (b) (6), (b) (7) I had reviewed camera footage of the incident and asked him why his recollection of events were different from the camera footage. (b) (6), (b) (7) stated, "I don't really know why!" I asked (b) (6), (b) (7) if he was angry or upset with (b) (6), (b) (7) on November 10, 2015 and he stated, "I don't think so! I don't really remember." I asked (b) (6), (b) (7) if he had any previous incidents with (b) (6), (b) (7) being aggressive and he stated, "yeah all the time, it's just how he is." I then asked (b) (6), (b) (7) if he had gotten tired of (b) (6), (b) (7) not listening to his verbal requests and wanted to take things to a more physical level and he stated, "yeah it very well could have." I then exited the Interview Room to retrieve a new Voluntary Witness Statement and then returned. I then asked (b) (6), (b) (7) if he wished to provide me with a Voluntary Witness Statement with his corrected version of events and he stated, "No I'd rather not, I'll just do a verbal statement." I thanked (b) (6), (b) (7) for being honest with me and Officer (b) (6), (b) (7) informed him he would be issuing him a citation for violation of 38 CFR 1.218(b)(11) Disorderly conduct. I then exited the Interview Room.

Signed by _____

Date: 11/25/15

*12

Department of Veterans Affairs
VA Police

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C)

On November 21, 2015, at about 1243 hours, I (Officer (b) (6), (b) (7)(C)) received one "TDK" Brand Compact Disc and case from Temporary Evidence Locker #3. The item was placed in permanent evidence storage locker "B" (Building 407 room 1706). All paperwork was completed, and filed, per Veterans Affairs policy.

Signed (b) (6), (b) (7)(C)

Date: 12/1/15

Department of Veterans Affairs
VA Police

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C)

On November 20, 2015, at approximately 0750 hours, I (Officer (b) (6), (b) (7)(C)) spoke with (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) in the Building (b) (6), (b) (7)(C) Ward (b) (6), (b) (7)(C) about an incident involving physical contact with (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) on November 10, 2015, at approximately 1910 hours.

(b) (6), (b) (7)(C) stated he was there speaking to Building (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) about the incident. I asked (b) (6), (b) (7)(C) if he would like to speak to the Veterans Affairs (VA) Police about the incident, in which he agreed making the comment, "Sure." (b) (6), (b) (7)(C) then requested union representation, in which none could be present at this time. (b) (6), (b) (7)(C) then stated he was coming into work at approximately 1500 hours today, and would get union representation and speak to me then. I had (b) (6), (b) (7)(C) complete a Voluntary Witness Statement form and a Statement of Employee Rights and Obligations form, and attached them to this follow-up. I then ended my conversation with (b) (6), (b) (7)(C).

The video surveillance camera footage (b) (6), (b) (7)(C) from the incident showed the incident started on November 10, 2015, at 1908 hours and 19 seconds. The footage shows (b) (6), (b) (7)(C) in the bottom left corner of the screen just out of camera view, and (b) (6), (b) (7)(C) walking into the dayroom to (b) (6), (b) (7)(C) location. The footage shows (b) (6), (b) (7)(C) making comments to (b) (6), (b) (7)(C) but due to there being no audio on the camera system, no specific statements could be heard. The footage next shows (b) (6), (b) (7)(C) stand up from where he was seated, and get closer to (b) (6), (b) (7)(C) making comments back to him along with pointing his finger at him. (b) (6), (b) (7)(C) also pushed (b) (6), (b) (7)(C) in the chest region once, in which at this point (b) (6), (b) (7)(C) had made no advances towards (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) hands appeared to be open and relaxed. At this point, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), who was in the top right corner of the screen getting vitals on another Veteran, stopped what she was doing, turned around, and faced (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) watching the rest of the incident to the end. (b) (6), (b) (7)(C) can be seen next advancing towards (b) (6), (b) (7)(C) a second time, and push him in the chest region again causing (b) (6), (b) (7)(C) to take a few steps backwards. (b) (6), (b) (7)(C) did attempt to grab (b) (6), (b) (7)(C) wrist during the second push, but only when (b) (6), (b) (7)(C) made the physical contact first. (b) (6), (b) (7)(C) then gets face to face with (b) (6), (b) (7)(C) while pointing down the hallway out of the dayroom, and then pushed (b) (6), (b) (7)(C) a third time in the chest region knocking him a few more steps back. (b) (6), (b) (7)(C) then attempts to go around (b) (6), (b) (7)(C) to get back into the dayroom, and (b) (6), (b) (7)(C) steps in front of him blocking his movement pointing down the hallway out of the dayroom in the process. (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) can then be seen having another verbal exchange, before (b) (6), (b) (7)(C) eventually leaves the dayroom at 1909 hours and 30 seconds. At no point during the footage did (b) (6), (b) (7)(C) leave the top right corner of the screen to assist (b) (6), (b) (7)(C) during the incident. During the entire altercation both (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) can be seen making comments to each other, and (b) (6), (b) (7)(C) can be seen pointing for (b) (6), (b) (7)(C) to exit the dayroom in between the pushes.

Between 0830 and 1000 hours, employees (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) all looked at the video surveillance camera footage regarding the incident for administrative purposes. While (b) (6), (b) (7)(C) was reviewing the footage, I asked her who the four other inpatient Veterans were in the camera view, in which she told me: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

During the times listed below, I spoke to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) separately in the hallway leading to the Building (b) (6), (b) (7)(C) Ward Dayroom (b) (6), (b) (7)(C) about the incident.

At approximately 1100 hours, I spoke with (b) (6), (b) (7)(C) about the incident. (b) (6), (b) (7)(C) stated (b) (6), (b) (7)(C) "does it all the time", when asked about the incident. When asked what "it" was, (b) (6), (b) (7)(C) stated "always loud and trying to take my money." (b) (6), (b) (7)(C) stated he could not recall what was said during the altercation due to (b) (6), (b) (7)(C) speaking that "jib jab." I then ended my conversation with (b) (6), (b) (7)(C).

At various times I spoke with (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) all separately about the incident, in which none of them could recollect anything pertinent about the events of the incident.

Interview with (b) (6), (b) (7)(C)

United States District Court
Violation Notice

W2-51

Violation Number (b) (6), (b) (7)(C)	Officer Name (Print) (b) (6), (b) (7)(C)	Officer No. (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)
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YOU ARE CHARGED WITH THE FOLLOWING VIOLATION

Date and Time of Offense (mm/dd/yyyy) 11/10/2015 1908	Offense Charged <input checked="" type="checkbox"/> CFR <input type="checkbox"/> USC <input type="checkbox"/> State Code 39 CFR 1.218 (b) (11)
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Place of Offense
SEE VETERANS SD., TOMAH, WI 54660

Offense Description: Factual Basis for Charge HAZMAT
DISORDERLY CONDUCT WHICH CREATES A LOUD, BOISTEROUS, AND UNUSUAL NOISE ON WHICH OBSTRUCTS THE NORMAL USE OF THE FACILITY.

DEFENDANT INFORMATION Phone: (b) (6), (b) (7)(C)

Last Name (b) (6), (b) (7)(C)	First Name (b) (6), (b) (7)(C)	M.I. (b) (6), (b) (7)(C)
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Street Address
(b) (6), (b) (7)(C)

City (b) (6), (b) (7)(C)	State	Zip Code	Date of Birth (mm/dd/yyyy)
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Drivers License No.	CDL <input type="checkbox"/> D.L. State	Social Security No. (b) (6), (b) (7)(C)
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<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile	Sex (b) (6), (b) (7)(C)	Hair (b) (6), (b) (7)(C)	Eyes (b) (6), (b) (7)(C)	Height	Weight
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VEHICLE VIN: _____ CMV

Tag No.	State	Year	Make/Model	PASS <input type="checkbox"/>	Color
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A IF BOX A IS CHECKED, YOU MUST APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).
B IF BOX B IS CHECKED, YOU MUST PAY AMOUNT INDICATED BELOW OR APPEAR IN COURT. SEE INSTRUCTIONS (on back of yellow copy).

\$ 250.00 Forfeiture Amount
+ \$25 Processing Fee

PAY THIS AMOUNT → \$ 275.00 Total Collateral Due

YOUR COURT DATE

(If no court appearance date is shown, you will be notified of your appearance date by mail.)

Court Address	Date (mm/dd/yyyy)
	Time (hh:mm)

My signature signifies that I have received a copy of this violation notice. It is not an admission of guilt. I promise to appear for the hearing at the time and place instructed or pay the total collateral due.

X Defendant Signat (b) (6), (b) (7)(C)

STATEMENT OF PROBABLE CAUSE
(For issuance of an arrest warrant or summons)

I state that on NOVEMBER 20, 2015 while exercising my duties as a law enforcement officer in the WESTERN District of WISCONSIN

(b) (6), (b) (7)(C) OFFICER (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) AT THE TIME AND DATE LISTED, IN AS
INFORMED OF PATIENT (b) (6), (b) (7)(C) CAUSING A DISTURBANCE
ON THE BUILDING (b) (6), (b) (7)(C) WARD. UPON INVESTIGATION, IT
WAS REVEALED STAFF MEMBER (b) (6), (b) (7)(C) OVER STEPPED
THIS DUTIES AND CARE TAKEN BY PUTTING HANDS ON
(b) (6), (b) (7)(C) IN THE FORM OF THREE PUSHES. (b) (6), (b) (7)(C)
WAS GIVEN THIS USUALLY FOR DISRUPTING THE NORMAL
OPERATION OF THE UNIT.

- The foregoing statement is based upon:
- my personal observation
 - my personal investigation
 - information supplied to me from my fellow officer's observation
 - other (explain above)

I declare under penalty of perjury that the information which I have set forth above and on the face of this violation notice is true and correct to the best of my knowledge.

Executed on: 11/20/2015 (b) (6), (b) (7)(C)
Date (mm/dd/yyyy)

Probable cause has been stated for the issuance of a warrant.

Executed on: _____
Date (mm/dd/yyyy) U.S. Magistrate Judge

HAZMAT = Hazardous material involved in incident; PASS = 9 or more passenger vehicle;
CDL = Commercial drivers license; CMV = Commercial vehicle involved in incident

**Department of Veterans Affairs
VA Police**

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C)

At approximately 1530 hours, (b) (6), (b) (7) arrived at the VA Police Office upon my request with Union Representative (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7) (b) (6), (b) (7) Officer (b) (6), (b) (7)(C) and myself all entered the VA Police Interview Room (#1715) to conduct the interview. While inside of the Interview Room, (b) (6), (b) (7) and (b) (6), (b) (7) were seated nearest the entry/exit door, while Officer (b) (6), (b) (7) and myself were seated next to the window. Before the interview began, I advised (b) (6), (b) (7) he was not under arrest and could end the interview at any time. I also advised (b) (6), (b) (7) the Interview Room door was closed only for privacy reasons, and he did not have to answer any questions if he did not want to. (b) (6), (b) (7) stated he understood, and the interview began.

I first asked (b) (6), (b) (7) to explain to me again the events from the incident. (b) (6), (b) (7) told a similar story to one described on the Voluntary Witness Statement form he had filled out for me earlier. (b) (6), (b) (7) stated on November 10, 2015, between 1900 and 1910 hours, he was in the Building (b) (6), (b) (7) Ward Dayroom (b) (6), (b) (7) handing out snacks to the other Veterans. (b) (6), (b) (7) stated (b) (6), (b) (7) then came into the dayroom, and "demanded" a snack now. (b) (6), (b) (7) stated he told (b) (6), (b) (7) to "wait his turn," in which (b) (6), (b) (7) replied with "fuck you, get it now." (b) (6), (b) (7) stated he told (b) (6), (b) (7) this was "inappropriate behavior" and needed to stop it or else he will not get a snack. (b) (6), (b) (7) stated this then "agitated" (b) (6), (b) (7) who started advancing towards him. (b) (6), (b) (7) stated he attempted to deescalate the situation by using the Prevention and Management of Disruptive Behavior (PMDDB) skills he was taught, which were not effective. (b) (6), (b) (7) stated he then felt (b) (6), (b) (7) was "trapping him into a corner" where the snack cabinet was on one side of him and a table was on the other. (b) (6), (b) (7) stated he then "lightly pushed" (b) (6), (b) (7) in the chest region to stop his advance who also was "swinging his arms" towards him as well. (b) (6), (b) (7) stated when he "lightly pushed" (b) (6), (b) (7)(C) would attempt to grab his wrists pulling him closer to (b) (6), (b) (7) in which he broke his grasp. (b) (6), (b) (7) stated this happened twice, and he was eventually able to get (b) (6), (b) (7) moved into the hallway and back to his room. (b) (6), (b) (7) stated during the altercation, (b) (6), (b) (7) made several "threatening" comments like; "I will slam you and then I will end you." and also using the comment "fuck you" numerous times.

I then asked (b) (6), (b) (7) if this was the story he was sticking with, in which he replied with "yes" after a (b) (6), (b) (7) pause.

I then asked (b) (6), (b) (7) if he knew there was video surveillance camera footage of the incident, in which he replied with "yes I do."

Officer (b) (6), (b) (7) and I then explained to (b) (6), (b) (7) his story does not match the video surveillance camera footage (see above for a description of the footage) and asked him why that might be. (b) (6), (b) (7) replied with the comment, "I don't really know why."

Officer (b) (6), (b) (7) and I asked (b) (6), (b) (7) if he was angry or upset with (b) (6), (b) (7) during the time of the incident. (b) (6), (b) (7) replied with "I don't think so. I don't really remember."

Officer (b) (6), (b) (7) and I asked (b) (6), (b) (7) if he has had any previous instances where (b) (6), (b) (7) was utilizing this type of behavior towards him. (b) (6), (b) (7) replied with "Yeah all the time, it's just how he is."

Officer (b) (6), (b) (7) and I then asked (b) (6), (b) (7) if he had finally gotten sick and tired of dealing with (b) (6), (b) (7) and wanted to get physical as payback. (b) (6), (b) (7) replied with "Yeah it very well could have."

Officer (b) (6), (b) (7) then left the Interview Room to retrieve a Voluntary Witness Statement form. While Officer (b) (6), (b) (7) was away, I asked (b) (6), (b) (7) why he lied to Officer (b) (6), (b) (7) and myself at the beginning of the interview. (b) (6), (b) (7) replied with "I don't feel like I was lying to you. I must have been agitated to the point to where I don't remember the events."

After a short while Officer (b) (6), (b) (7) returned to the Interview Room with a Voluntary Witness Statement form, and asked (b) (6), (b) (7) if he wanted to complete another one with the corrected version of events. (b) (6), (b) (7) replied with "No I'd rather not, I'll just do a verbal statement."

I then advised (b) (6), (b) (7) I would be giving him a United States District Court Violation Notice (b) (6), (b) (7)(C) for violating 38 CFR 1.218(b) (11) Disorderly Conduct for his actions in the dayroom. Once completed, I explained the United States District Court Violation Notice to (b) (6), (b) (7) who voluntarily signed the bottom acknowledging it was not an admission of guilt. I provided (b) (6), (b) (7) with his copy of the United States District Court Violation Notice and the envelope portion, and asked if he had any questions. (b) (6), (b) (7) only had one, and

**Department of Veterans Affairs
VA Police**

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C)

asked about how the United States District Court Violation Notice would effect his other job. I advised (b) (6), (b) (7) it was up to the Assistant United States Attorney's Office if they wanted to have the United States District Court Violation Notice show up on his local record, but otherwise the United States District Court Violation Notice would not show up on his local record. (b) (6), (b) (7) and (b) (6), (b) (7)(C) then left the VA Police Office.

End of interview with (b) (6), (b) (7)

At approximately 1600 hours, I had VA Police (b) (6), (b) (7)(C) make a copy of the Video Surveillance camera footage from the incident onto a Compact Disc. I sealed the Compact Disc in its case then secured it into an evidence storage bag. I then completed a VA Police Property Held Evidence Record form on the Compact Disc, and placed both of them into Temporary Evidence Storage Locker #3.

At approximately 1730 hours, I spoke with (b) (6), (b) (7)(C) in the Building (b) (6), (b) (7)(C) Conference Room about the incident. I had (b) (6), (b) (7)(C) sit near the door while I sat across the table from her next to the back wall. I advised (b) (6), (b) (7)(C) the reasoning for the interview and she did not have to answer any questions if she did not want to and was free to leave whenever she wanted. The door to the conference room was also shut for privacy reasons. I asked (b) (6), (b) (7)(C) if she had anything else to tell me about the incident from when Officer (b) (6), (b) (7)(C) had spoken to her. (b) (6), (b) (7)(C) stated she did not, and what she had put down on the Voluntary Witness Statement form Officer (b) (6), (b) (7)(C) had her complete was all she witnessed. I advised (b) (6), (b) (7)(C) the video surveillance camera footage shows her watching the entire altercation, and again asked her if she had seen or heard anything specific from the incident. (b) (6), (b) (7)(C) again stated what she had written on the Voluntary Witness Statement was all she witnessed. I asked (b) (6), (b) (7)(C) if she had seen or heard anything she would want to report to me in reference to (b) (6), (b) (7) being not professional with his contact with (b) (6), (b) (7) (b) (6), (b) (7) stated she did not and repeated the comment to what she put in the statement was all she knew. I then advised (b) (6), (b) (7)(C) if she was withholding information to assist (b) (6), (b) (7) in the matter it was too late, and now was the time to divulge any pertinent information regarding the matter. (b) (6), (b) (7) stated she did not have anything further to say, and repeated her comment of what she put in the statement was all she knew. I then ended my conversation with (b) (6), (b) (7)(C)

The case is now closed criminally, and (b) (6), (b) (7) was given a United States District Court Violation Notice for his actions, and (b) (6), (b) (7)(C) was counseled about his behavior.

Signed by: _____

Date: 11/25/2015

DEC 02 2015

(b) (6), (b) (7)(C)

19

Date/Time Printed 12/1/2015 8:27:24PM

Department of Veterans Affairs
VA Police

Follow Up Report

UOR#: 2015-11-12-0745-9423

Officer: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

On November 30, 2015 at approximately 1615 hours, I (Lieutenant (b) (6), (b) (7)(C)) received a phone call from Office of the Inspector General Special Agent (b) (6), (b) (7)(C) in regard to information about this investigative report. I gave Special Agent (b) (6), (b) (7)(C) a brief synopsis of the incident and he also requested a copy of the report. Police (b) (6), (b) (7)(C) then compiled and scanned the report and sent it as an attachment to Special Agent (b) (6), (b) (7)(C). No Further Action.

Signed by: (b) (6), (b) (7)(C)

Date: 12/1/15