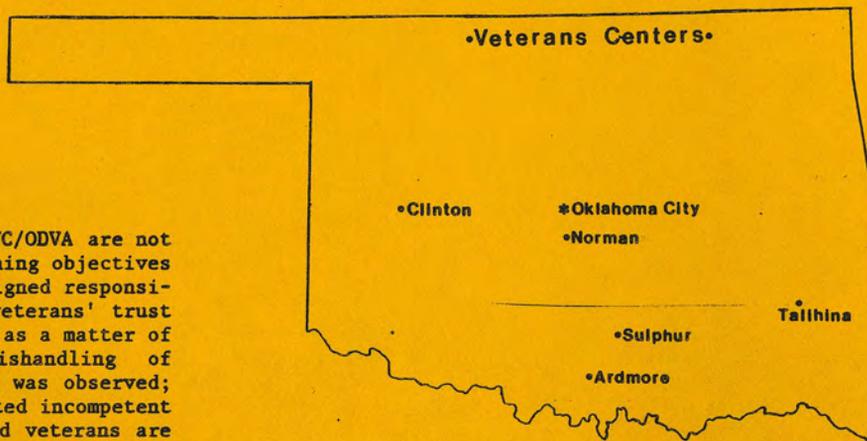


# Legislative Audit Report

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## OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS



In our opinion the WVC/ODVA are not effectively accomplishing objectives inherent to their assigned responsibilities. Deceased veterans' trust funds are confiscated as a matter of policy; apparent mishandling of veterans' trust funds was observed; rights of veterans rated incompetent are not protected; and veterans are housed under unsafe conditions while available funds are spent for nonessentials.

Purchasing practices and claims procedures are seriously discrepant. Statutes and policies pertaining to contracting are disregarded. Fraudulent travel reimbursement claims were observed.

Financial and property internal control procedures are seriously discrepant. The money and property of the state are not being properly safeguarded.

Authorized for Release  
by the Subcommittee  
on Fiscal Operations

January 21, 1981

**Oklahoma  
Legislative  
Council**

PERFORMANCE AUDIT

Oklahoma Department of Veterans Affairs

War Veterans Commission

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Charles Lowrance, Manager, Oklahoma Veterans Center - Clinton  
Douglas Kemp, Acting Manager, Oklahoma Veterans Center - Norman  
Jerry J. Stewart, Manager, Oklahoma Veterans Center - Sulphur  
Harold Lawrence, Manager, Oklahoma Veterans Center - Talihina

Submitted:

To: Subcommittee on Fiscal Operations

By: Postaudit Section  
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## PREFACE

This report presents the findings of the performance postaudit of the Oklahoma Department of Veterans Affairs and of the veterans centers at Ardmore, Clinton, Norman, Sulphur and Talihina. The audit was conducted at the direction of the Subcommittee on Fiscal Operations.

The purpose of a performance postaudit is to study the effectiveness of agency administration, the efficiency and adequacy of its programs and the conformance of its expenditures with legislative intent (74 O.S. Supp. 1979, § 452.4). Evaluations of an agency's efficiency, economy of operation, effectiveness and compliance are components of a performance audit. Except when specifically directed, we do not conduct financial audits in conjunction with legislative audits. This report is not an expression of opinion on the financial statements of the agency. We report constitutional and statutory compliance discrepancies as matters of fact. We do not attempt to resolve questions of law.

The audit fieldwork was conducted during the period March 24 - August 21, 1980 with followup visits during the time the report was being compiled and edited. Interim briefings were given senior agency personnel at each location.

This report contains a section specifically addressing agency effectiveness (an appraisal of the quality of service provided and whether or not the service contributes to the accomplishment of the purpose[s] of the agency). Because the agency does not have goals and objectives by which effectiveness can be quantifiably measured, the conclusions may be partially subjective. However, the basis for the conclusions are factual management and compliance deficiencies.

The draft report was presented to the Subcommittee on Fiscal Operations and the War Veterans Commission at an exit interview October 22, 1980. Copies of the draft report were distributed at that time, along with the proposed time schedule for release of the final report. The WVC/ODVA was requested to review the draft report, make any comments concerning the factual information presented and return their comments to the Postaudit Section by 6 November. The WVC/ODVA requested an exit interview for 4 November at which time they presented their rebuttal to the draft report. The ODVA rebuttal, with auditor comments, is available at the office of the Postaudit Function, Legislative Council, Fiscal Services Division. The Subcommittee on Fiscal Operations authorized release of the final report on January 21, 1981.



## SUMMARY OF FINDINGS

### Operations and Program Effectiveness

The Oklahoma Department of Veterans Affairs (ODVA) is responsible for providing assistance to honorably discharged Oklahoma veterans and their dependents. Assistance includes hospital, nursing and domiciliary care for eligible veterans; financial assistance in times of emergency; disbursement of child welfare assistance; and aiding veterans and their dependents in securing all possible state and federal benefits to which they may be entitled. The controlling board of the ODVA is the War Veterans Commission (WVC). The WVC has appointed a director to manage and supervise the activities under its control.

The ODVA has published some objectives of the agency. We have included an evaluation of how effectively the WVC/ODVA has met the expressed objectives and certain other objectives basic to the operation of the agency.

While veterans living in the five centers appeared to receive excellent care, food and around-the-clock supervision, in our opinion, the WVC and ODVA are not effectively fulfilling the stated and expected objectives of the agencies for which they are responsible. They have not provided veterans with functional and safe facilities; they have not operated facilities in an efficient and economical manner; they have not protected the rights and property of the veterans entrusted to their care; and they have not effectively administered the emergency grant and loan program.

Following are some of the deficiencies on which these conclusions are based.

- lack of a meaningful priority system in expenditures of capital outlay appropriations
- hazardous conditions at the veterans centers as reported by the State Fire Marshal
- apparent circumvention of state statutes regarding purchasing and claims procedures
- conflicts of interest involving senior management personnel
- apparent misapplication of funds held in trust for veterans rated incompetent by the Veterans Administration (VA)
- failure to maintain auditable records of withdrawals of funds held in trust for veterans
- apparent false statements of use of funds held in trust for veterans
- confiscation of trust funds from the accounts of veterans who die while residents of a veterans center

In our opinion, Oklahoma veterans should be accorded more than basic medical and physical care when accepted as residents of WVC-managed and ODVA-operated centers. We believe the failure to provide safe facilities, the failure to adequately protect the rights and properties of resident veterans, the failure to maintain reasonable cost and internal controls, and the failure to monitor and control the grant and loan programs are cause for concluding the management operations of the ODVA ineffective.

#### Matters Pertaining to Veterans Residing at the Veterans Centers

Veterans' Care and Treatment Charges. The WVC is authorized to establish and make reasonable collections from resident veterans for care and treatment. A "maintenance charge formula" is applied to a veteran's adjusted income to determine such charges. Adjusted income excludes earnings from center employment; deductions are also allowed for contributions to a veteran's dependents for their support. The WVC has delegated authority to center managers to determine the amount of contribution to dependents. The WVC has not provided usable decision making criteria nor has it established a controlling mechanism to oversee the decision making process.

During at least the past eight years, the ODVA has violated its own instruction regarding care and treatment charges. The ODVA did not properly promulgate rules and regulations adopted by the WVC in 1973 to raise the charge for care and treatment, and veteran residents have been charged more than the amount allowed by the lawful policy.

The instruction states the care and treatment charges shall not exceed the per capita cost or \$100 per month, whichever is greater. Center per capita cost is defined as the total cost of operation divided by the patient population. The average per capita cost in FY 1980 was over \$40 a day, or \$1200 a month.

Determination of a Veteran's Competency. A number of veterans residing in the veterans centers are not competent to handle their own affairs. In some instances the veterans have court-appointed guardians, and the rights of these veterans are protected by law. However, many veterans declared incompetent by the VA and by the Social Security Administration are without the protection of a court-appointed guardian. In these instances the center acts as an agent for the veterans. Some veterans have not been legally nor administratively determined incompetent but are considered incompetent by some members of the medical staff at the centers.

Funds Held in Trust for Resident Veterans. The individual veteran's trust funds are recorded upon ledger cards. The funds are kept in state "special accounts" and withdrawals are made using counter-signed checks in compliance with state statutes. Deficiencies detected in the management and control of veterans' trust funds included presigned blank checks; an unauthorized petty cash fund; questionable and apparently improper donations and purchases; and poor to fair internal controls at the centers.

When a center resident dies, it is the policy of the ODVA, under certain circumstances, to establish an accounts receivable whereby the deceased veteran owes the center an amount calculated as the difference between what the veteran has paid and the total per capita cost allowable for care and treatment. When a veteran is admitted to a center, neither the veteran nor the heirs are made aware of the potential liability. The charge is not carried on a veteran's accounts receivable ledger. If the veteran left a widow/widower and/or dependent children, the trust funds are not taken.

The ODVA policy and various letters cite 72 O.S. 1971, § 63.5 and an Attorney General's opinion as the authorities upon which the policy is based. The ODVA "collects" the claims by withdrawing funds held in trust for the veteran and depositing the money in the center's revolving fund. The cited statute does not authorize a posthumous charge and the Attorney General's opinion does not exist. The ODVA policy is erroneous in its conclusions and twisted in its application. Furthermore, the ODVA has deceived veterans and their heirs and has disregarded the laws pertaining to probate and succession.

#### Statutory Compliance and Management Practices

The ODVA has violated, often routinely, provisions of many statutes applicable to state agencies in general. Following are illustrations of statutory violations and examples of poor management practices.

Violations of Open Meeting Act. The WVC violated the Oklahoma Open Meeting Act on numerous occasions. Nonpersonnel subjects were discussed and the commission voted on and adopted policies during WVC executive sessions.

Violations of State Agency Rules and Regulations Act. The WVC has failed to comply with the provisions of the State Agency Rules and Regulations Act which requires agencies possessing rule-making powers to file certified copies of adopted rules and regulations with the Secretary of State and the State Librarian and Archivist. A 1976 revision of WVC rules and regulations, which are currently used, were not properly filed and are therefore void and without effect. Other deficiencies concerning WVC and agency policies and published rules and regulations include a lack of written policies addressing matters having a major impact on the agencies; sections of published rules and regulations are not factual and conflict with statutory law; and frequent and intentional violations of published rules and regulations occur.

Claims and Purchasing Deficiencies/Central Purchasing Act. The absence of proper purchasing policies and practices within the ODVA has led to serious deficiencies in the organization's purchasing and claims procedures and violations of state statutes.

--Claims have been approved with improperly filed facsimile signature stamps, a violation of 62 O.S. 1971, § 602.

- The ODVA has routinely violated 74 O.S. 1971, § 85.7 dealing with competitive bid requirements for purchases over \$500.
- The ODVA has entered into printing contracts for over \$200 without approval of the Board of Public Affairs, a violation of 74 O.S. 1971, § 113.
- The ODVA has not acquired contractual professional services by the presentation of requisitions for such services to the Purchasing Division of the Board of Public Affairs as required by 74 O.S. Supp. 1979, § 85.7.
- The ODVA has purchased items from a noncontract vendor when such items were on state contract, a violation of 74 O.S. 1971, § 85.5.
- The ODVA has purchased goods from employees, a violation of 74 O.S. 1971, § 1405.
- The ODVA has allowed an employee to purchase items for personal use through the state system, a poor management practice and a circumvention of state use tax laws.
- ODVA personnel have used state gasoline credit cards to purchase items for private vehicles.
- The ODVA has apparently violated the provisions of 47 O.S. Supp.1979, § 156 through the purchase of buses for three veterans centers.
- Other unjustified and unnecessary purchases include ambulances purchased for two centers, and a microwave oven, color television set and two large freezer-refrigerators seemingly for the benefit of the employees at the department headquarters.

Improprieties Concerning a Privately Owned Ambulance. The former manager of the Sulphur veterans center, now the ODVA Director, and a resident veteran co-owned an ambulance used to transport veterans between Sulphur and the VA hospital in Oklahoma City. The VA paid the resident veteran/co-owner/driver for these services.

Three apparent improprieties occurred. First, a state gasoline credit card was used to purchase gasoline for the privately owned ambulance. Second, while the ambulance co-owners were not paid state funds, there appears to be a conflict of interest for the Center Manager/co-owner. Third, the resident veteran's records did not reflect income from this venture. Excusing income would violate WVC policy regarding the setting of care and treatment charges.

Providing State Housing to Employees. The WVC has failed to establish a policy addressing the allocation of state housing. We were told free or below market housing was used to augment salaries

and as an inducement to accept employment. This policy appears to violate the uniform pay plan and the intent of the Legislature to establish a standard compensation plan. Providing free housing to managers circumvents the salary schedule adopted by the Legislature in the ODVA Appropriations Act.

Inventory Control. The ODVA does not have sufficient controls to adequately safeguard the assets of the state. While required by 74 O.S. 1971, § 110.2 to maintain inventory records, those at the department headquarters were incomplete and inaccurate. Inventory verification also indicated equipment was not identified with inventory control tags, a violation of 74 O.S. Supp. 1979, § 110.1.

Travel. Commissioners are reimbursed for travel expenses in accordance with the Oklahoma State Travel Reimbursement Act (74 O.S. Supp. 1979, § 500.1 et seq.) and are paid \$25 for each day they conduct business of the commission. Neither the commission meeting minutes nor other available records indicated the purpose or justification for much of the War Veterans Commissioners' in state travel. A commissioner's July 1980 trip to a DAV convention in Hawaii cost the ODVA over \$1200. Furthermore, travel reimbursement claims show at least four instances where the double occupancy rate was reimbursed to a commissioner. The ODVA Director has also attended national conventions of the service organizations and has been reimbursed for lodging at double occupancy rates.

Travel claims of the Director were examined and indications of serious improprieties were revealed. In at least thirteen instances, evidence exists which shows the Director using his assigned state vehicle and/or his state gasoline credit card during the time of the travel claimed by private vehicle.

Several ODVA employees drive state owned vehicles for personal use. This is prohibited by 47 O.S. 1971, § 159.3.

#### Other Matters

Personnel Management and Records. Examinations of personnel management and records were conducted at each veterans center and at the department headquarters. The following observations are a result of these examinations.

- The Director of ODVA was inconsistent in making decisions concerning transfers of employees within the ODVA, in granting leave to employees in the department headquarters, and in other personnel matters.
- Three ODVA employees were performing the bulk of their duties for veterans service organizations, an apparent violation of the Oklahoma Constitution.
- Violations of merit rules regarding employee leave occurred.

--The Director of ODVA, while Sulphur Center Manager, appointed his son to a position at the center, subsequently signed numerous requests for merit increases for his son, and later, while Director of ODVA, orchestrated a transfer for his son to be the maintenance superintendent at the Norman facility.

--The "work therapy" program for resident domiciliary veterans lacked a written policy, contributing to the deficiencies in recordkeeping and inconsistencies in compensation to the veterans.

Unresolved Deficiencies Identified in Previous Audits. Each of the six agencies within the ODVA is subject to an annual audit by the State Auditor and Inspector's Office. The most recent audits were conducted in 1976 through 1978 and listed significant problems in inventory, petty cash, trust funds and accounts receivable. Five deficiencies presented in the audits regarding the inventory system continue to exist. It appears the ODVA not only failed to correct the specific problems regarding petty cash, it took no action to prevent further deficiencies. Some of the specific problems concerning veterans' trust funds have been corrected, but unauthorized withdrawals were still occurring at the time of the legislative audit. Two SE&I audits addressed the legality of assessing back maintenance charges, and a recommendation was made "that these procedures be stopped immediately until authorized by the Attorney General or Legislative Authority." The practice continues to exist. We conclude that the continued cause and failure to correct these deficiencies lie with the WVC which must set policies and assure adherence to policy, law and good management practices.