



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

November 9, 1999

The Honorable Elaine Kaplan
Special Counsel
Suite 300
1730 M Street, NW.
Washington, D.C. 20036-4505

Dear Ms. Kaplan:

In a letter dated July 7, 1999, your office forwarded allegations (DI-99-0611) from Dr. Duane Wyatt, a former GS-11 Veterinary Medical Officer with the Food Safety and Inspection Service (FSIS). Dr. Wyatt alleged that during a five year period from 1989 to 1994, FSIS officials repeatedly failed to comply with USDA regulations governing the antemortem examination and condemnation of animals presented for slaughter at Establishment 17-D, John Morrell, Inc., in Sioux Falls, South Dakota. Dr. Wyatt alleged that these officials, namely Dr. Muhammad Zia Ud Din (GS-13 Inspector In Charge), Dr. Olander Benson (GS-12 Supervisory Veterinary Medical Officer), and Dr. David Kaiser (GS-13 Circuit Supervisor), prevented him from thoroughly performing his inspection duties, reversed his disposition decisions, responded to John Morrell company pressures to pass livestock through inspections despite evidence of disease, and participated in or permitted personal harassment against him.

My office referred Dr. Wyatt's complaint to FSIS for administrative review and response. FSIS officials are aware of, and have repeatedly responded to, the allegations Dr. Wyatt has reiterated over the past 10 years regarding his work experience at Establishment 17-D. Despite these repeated inquiries by FSIS officials, Dr. Wyatt continues to pursue these issues. Over time, he has reiterated his concerns via written and electronic mail correspondence to various levels of FSIS management; to the USDA Office of Inspector General (OIG); and to various outside entities such as the National Association of Federal Veterinarians, the Government Accountability Project, and Members of Congress. During the fall of 1998, he was in contact with and received responses from my office, as well as from Ms. Caren Wilcox, the Deputy Under Secretary for Food Safety. In fact, Ms. Wilcox personally telephoned Dr. Wyatt on November 12, 1998, regarding his e-mail messages to me, and spent considerable time listening to and conversing with Dr. Wyatt regarding his concerns. During this conversation, Dr. Wyatt admitted to Ms. Wilcox that he was obsessing over these issues and had been counseled by persons outside of USDA that he should try to refrain from doing so. Ms. Wilcox informed Dr. Wyatt that she had made inquiries into his allegations against FSIS, that she was satisfied that the matters had been addressed at the time of the alleged events, and she encouraged Dr. Wyatt to look toward the future.

In response to the current documentation compiled by Dr. Wyatt in support of his allegations, it was not practical nor possible for FSIS to respond in detail to each of Dr. Wyatt's specific and extensive allegations because:

- 1) there are no new issues, and the agency has previously addressed Dr. Wyatt's allegations;
- 2) 5 to 10 years have elapsed since the incidents allegedly occurred; and
- 3) most of the key officials named in the allegation have retired and are unavailable to respond.

However, FSIS conducted a paper review of the extensive documentation currently on file regarding Dr. Wyatt's allegations and the agency's past responses to them. Additionally, the agency also had discussions with several individuals who are still employed with FSIS, including Dr. Ronald Nelson, the former Boulder Assistant Area Supervisor, as well as with officials in the agency's compliance program and Review and Assessment Staff regarding Dr. Wyatt's allegations, his performance, and the subsequent performance of Establishment 17-D in program reviews. Below is a summarization of Dr. Wyatt's tenure with FSIS and the agency's responses to Dr. Wyatt's key allegations.

Dr. Wyatt began his career with FSIS on December 12, 1982, and performed adequately for seven years in three beef plants and one poultry plant in Minnesota and Wisconsin. In August 1989, he transferred to a GS-12 level position in Sioux Falls, South Dakota, at Establishment 17-D, John Morrell, Inc., a large, high volume, multi-species plant where he performed postmortem dispositions on cattle, sheep, and swine. By Dr. Wyatt's own admission, he had minimal prior experience with swine dispositions, and his subsequent postmortem condemnation rate of hogs drew complaints from plant management. Supervisory observations of Dr. Wyatt's postmortem carcass dispositions showed that he had difficulty making sound and consistent veterinary diagnoses and dispositions. Repeated supervisory correlation efforts were unsuccessful, and on April 22, 1990, Dr. Wyatt accepted a voluntary downgrade to a less demanding GS-11 antemortem position at Establishment 17-D.

The majority of Dr. Wyatt's allegations against the agency originated from approximately April 22, 1990, to August 7, 1994, while he performed GS-11 antemortem veterinary duties at Establishment 17-D. However, during this time, Dr. Wyatt demonstrated repeated errors in his antemortem dispositions, such as condemning animals based on secondary or localized conditions (such as emaciation or paralysis) without identifying any primary systemic pathology, or misdiagnosing blind animals as exhibiting central nervous system disorders. On November 8, 1990, Dr. Wyatt's supervisor issued a Performance Improvement Plan to him and provided Dr. Wyatt with on-the-job training and correlation.

FSIS officials have repeatedly addressed Dr. Wyatt's allegations and have been unable to substantiate his allegations. Internal agency program reviews have examined the inspection operations at Establishment 17-D in July 1984, and August of 1987, 1992, and 1994. While minor procedural deficiencies were noted, the reviewers did not find evidence of ante- or postmortem inspection failure, nor of the passing of unsafe meat for human consumption. Although Dr. Wyatt has indicated he has conclusive evidence of dishonesty by his supervisors in their alleged efforts to thwart his antemortem inspection activity, he has never presented substantive evidence to support his voluminous allegations.

Further, in response to a December 1993 OIG Hotline complaint from Dr. Wyatt, the FSIS Review and Assessment Staff, in August 1994, conducted at Establishment 17-D an unscheduled and unannounced program assessment specifically addressing Dr. Wyatt's allegations. With the exception of a minor recordkeeping deficiency, the Internal Assessments Officer observed that the alternate antemortem inspection procedures were in compliance with the approved program and FSIS regulations, and that no evidence of unsafe product being passed for human consumption could be substantiated. However, the reviewer did note that working relationships and communications were strained among Dr. Wyatt and other supervisory veterinarians. The reviewer also noted that this tension, in combination with Dr. Wyatt's lack of training and experience in dispositions, contributed to his misperception and misunderstanding about antemortem procedures and methods used. The reviewer recommended an assessment of Dr. Wyatt's training needs; however, Dr. Wyatt accepted a GS-11 reassignment to a Monfort plant in Greeley, Colorado, on August 8, 1994, very shortly after the review was conducted.

Former Boulder Assistant Area Supervisor Dr. Ronald Nelson reported that Dr. Wyatt performed adequately in postmortem cattle dispositions while assigned to the Boulder Area from August 1994 to July 1997. Dr. Nelson stated Dr. Wyatt had met with him to discuss the allegations concerning his supervisors at Establishment 17-D. Dr. Nelson stated that, while Dr. Wyatt appeared to be an intelligent and conscientious individual, he perceived Dr. Wyatt to be somewhat paranoid in his thinking, compulsively fixated on his experiences at Establishment 17-D, and was unable to let go of the past. On October 12, 1996, Dr. Wyatt accepted a voluntary reassignment to a low volume slaughter plant in Ovid, Colorado. Dr. Wyatt later called the Boulder Area Office and reported his own misconduct, indicating he felt the Area Supervisor should discipline or fire him because he was not doing his job. Due to depression and stress, Dr. Wyatt stopped working on July 20, 1997, and utilized annual leave, sick leave, and leave without pay to cover his absence pending the Office of Personnel Management's approval of his disability retirement application of November 8, 1997. Psychiatric documentation included in Dr. Wyatt's application file for disability retirement indicated he suffered from depression and post traumatic stress disorder with obsessive traits present. His disability retirement was subsequently approved, and Dr. Wyatt voluntarily retired on February 4, 1998. The agency in no way encouraged or coerced Dr. Wyatt in this action.

A summary of past agency actions and responses to Dr. Wyatt's allegations follows.

October, 24, 1990: OIG case number KC-2401-0. Based on a citizen complaint regarding FSIS management practices at Establishment 17-D, John Morrell, Inc., Sioux Falls, South Dakota, OIG conducted limited on-site interviews with FSIS veterinarians assigned to Establishment 17-D. Based on those findings, OIG declined to open an investigation and referred the matter to the agency's attention. The agency responded to OIG on December 20, 1990, stating that Dr. Wyatt exhibited performance deficiencies in a critical job element pertaining to making proper veterinary dispositions. Dr. Wyatt was issued a Performance Improvement letter by his immediate supervisor on November 8, 1990, and was provided more on-the-job training and correlation. The Regional Director concurred in this decision. No further agency action was taken.

November 8, 1991: OIG case number KC-2401-0-67. Dr. Wyatt raised similar allegations about FSIS management practices at Establishment 17-D that were identified in the prior OIG complaint. OIG again declined to investigate and referred the matter to FSIS. FSIS responded on December 9, 1991, that the management practices at Establishment 17-D had been reviewed, and concluded that Dr. Wyatt needed to improve his communication skills and his professional judgment of dispositions, particularly in borderline cases. His supervisors were instructed to continue counseling him in this area.

December 22, 1993: Hotline Complaint PS-2401-0294. Dr. Wyatt again raised allegations about improper antemortem inspection procedures used at Establishment 17-D, and that unsafe product was being passed for public consumption. In August 1994, an unannounced program assessment by the FSIS Program Assessments Branch of the Review and Assessment Staff was conducted at Establishment 17-D based on the OIG complaint. Aside from some minor recordkeeping deviations, the assessment found that proper antemortem procedures were being followed, and the allegation of unsafe product being passed for human consumption was unfounded. It was also noted that Dr. Wyatt appeared to lack sufficient experience and proper judgment to make accurate antemortem dispositions, and that he misinterpreted applicable regulations, which contributed to his frustration with the antemortem program. Although Dr. Wyatt's supervisor did correlate dispositions with him, there were also apparent communication problems between them. Additional training was recommended but was apparently not completed due to Dr. Wyatt's reassignment to Colorado.

March 9, 1998: Hotline Complaint PS-2401-0602. It was alleged that FSIS supervisory personnel at Establishment 17-D were continuing to permit animals with central nervous system disorders to be slaughtered, despite a report of this happening several years prior. Allegations similar to these were brought up and reviewed, as noted above, in 1990, 1991, and 1994, without any adverse findings. As the allegations were seven to eight years old, it was determined that any further review would be very difficult and redundant. The matter was closed without action.

November 23, 1998: Hotline Complaint PS-2401-0618. Dr. Wyatt alleged that a veterinary colleague covered up and disregarded animals exhibiting symptoms of central nervous system disorders. The agency responded that the allegations were several years old, and that they had been looked into and addressed on at least three different occasions without any evidence to support them. The matter was closed without further action.

In Dr. Wyatt's present correspondence to your office, he reiterates his allegations that the FSIS supervisory and managerial chain, from the in-plant Inspector in Charge (IIC) to the Regional Director, failed to comply with regulations governing the antemortem condemnation of diseased animals at Establishment 17-D, and that the IIC responded to pressure from plant management to permit the slaughter of animals despite evidence of disease. The administrative review examined all available documents pertaining to Dr. Wyatt, and looked for evidence sustaining his allegations of violations of law and regulation by FSIS officials. Specifically, the allegations and findings are as follows.

Allegation: FSIS officials allowed Establishment 17-D to operate under modified antemortem procedures (i.e., 5-10% antemortem review of normal animals) when plant employees allegedly failed to adhere to the requirements of the plan (i.e., not culling abnormal animals for veterinary examination). FSIS officials denied Dr. Wyatt's request to return to 100% antemortem inspection of normal lots.

Response: Program reviews conducted in 1992 and 1994, which examined the alternate (10%) antemortem procedures performed at Establishment 17-D, determined that the program was operating acceptably and in compliance with the approved program. The alternate inspection program was approved by the Billings Area Supervisor in May 1991. While minor recordkeeping procedures on the part of the plant were found lacking during the 1994 review, this deficiency was corrected and did not justify returning operations to 100% inspection.

Allegation: Dr. Wyatt's supervisors overturned his antemortem condemnation decisions, ordering the replacement of condemn tags with suspect tags, and permitted these animals to enter the plant for slaughter.

Response: Based on the professional opinions and consensus of several experienced FSIS veterinarians in Dr. Wyatt's supervisory chain, Dr. Wyatt was found to be lacking in experience and judgment, which resulted in his making improper antemortem disposition decisions, most notably on borderline cases. While Dr. Wyatt's colleagues judged him to be an intelligent and concerned individual, they also opined that he exhibited both obsessive/compulsive and paranoid tendencies. Dr. Wyatt was found to have interpreted regulations in isolation and out of context; failed to consider a total differential diagnosis in his decision making process, which resulted in his condemning animals for secondary conditions without evidence of primary pathology; and condemned animals erroneously for exhibiting isolated, rather than systemic, conditions. Such errors were attributed to a lack of experience, and when such errors occurred, Dr. Wyatt was instructed by his supervisors to replace condemn tags with suspect tags.

Tagged animals were then slaughtered and closely inspected separately from normal lots. Such action did not permit diseased meat to be passed for human consumption, despite Dr. Wyatt's allegations to the contrary.

Allegation: Dr. Wyatt's supervisor (Zia Ud Din) informed him (Wyatt) he was "working too hard" and that he should stop taking the temperature of every suspect animal.

Response: Dr. Wyatt's supervisors determined that he was making poor use of his time by taking the temperature of every animal in the suspect pen. Dr. Wyatt was advised that not every downer animal was ill, but may have suffered an injury in its transport to the pens. It is an unusual and unnecessary practice for an experienced veterinarian to take the temperature of every suspect animal, particularly those whose suspect status is based on environmental factors such as heat, or on behaviors determined to be characteristic of localized, rather than systemic conditions, such as paralysis or blindness. Dr. Wyatt repeatedly demonstrated difficulty in properly diagnosing the distinctions between isolated and systemic conditions and often inappropriately condemned animals for the former conditions. Supervisory instructions to refrain from taking the temperature of and tagging every animal identified as abnormal did not contradict FSIS regulations.

Allegation: FSIS supervisory personnel permitted or participated in harassing Dr. Wyatt for his whistleblowing activities. Allegations include obscenities and whistling from co-workers, derogatory messages posted on a blackboard, dead rats outside his office door, a broken car window, and false accusations to the police of his taking hostages in his home.

Response: None of the supervisory personnel assigned to Establishment 17-D during the time period Dr. Wyatt was assigned there (1989 to 1994), namely IIC Dr. Muhammad Zia Ud Din, SVMO Dr. Olander Benson, and Circuit Supervisor Dr. David Kaiser, are presently available to be questioned on these allegations. While Dr. Zia Ud Din is still employed at the FSIS Technical Service Center in Omaha, Nebraska, he is currently on indefinite sick leave. Drs. Benson and Kaiser have retired from service. While the agency does not deny that working relationships and communications were strained between Dr. Wyatt and these individuals, the agency could not presently substantiate that Dr. Wyatt raised these harassment issues with his chain of command proximate to the time they allegedly occurred. In addition, he did not show that such events, if they occurred, were intentionally directed at him and were not merely coincidental events that Dr. Wyatt perceived as harassing. The agency cannot address allegations of which it was unaware. Mr. Charles Ellis, the investigator who conducted the unannounced program assessment review on Establishment 17-D in August 1994, stated he was unaware of these allegations of harassment, and indicated that at no time during his eight-hour interview with Dr. Wyatt were these allegations articulated.

Conclusion and Recommended Disposition: FSIS believes that Dr. Wyatt was a conscientious and well meaning employee. However, he also repeatedly failed to utilize proper judgment in his antemortem and postmortem dispositions at Establishment 17-D despite supervisory

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intervention. He also exhibited paranoid and obsessive behavior, as well as poor communication skills, which affected his performance, perception of events, and relationships with others. The fact that Dr. Wyatt continues with pertinacity to pursue 10-year old allegations, which he knows have been, for the most part, investigated and reinvestigated, suggests this obsessive nature. While Dr. Wyatt subsequently performed acceptably at less stressful assignments in Colorado for approximately the next three years, he ultimately blamed his mental disability on his alleged mistreatment by FSIS during his tenure at Establishment 17-D, and ultimately declared himself incompetent due to disability. FSIS refutes Dr. Wyatt's unsupported allegations, which attack the professional competence and personal integrity of his supervisory chain, and firmly denies that anyone but Dr. Wyatt is responsible for his marginal performance and decision to retire from service. The agency concludes that the allegations of violations of inspection laws and regulations at Establishment 17-D, the abuse of authority, and the endangerment of the public health are unfounded, without merit, and do not warrant further inquiry.

If you have any questions concerning the response to this complaint, please contact Mr. Mark Leking, Chief, Employee Relations Branch, FSIS, at (202) 720-5657.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Glickman". The signature is written in a cursive, flowing style.

DAN GLICKMAN
Secretary



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Response: Program reviews conducted in 1992 and 1994, which examined the alternate (10%) antemortem procedures performed at Establishment 17-D, determined that the program was operating acceptably and in compliance with the approved program. The alternate inspection program was approved by the Billings Area Supervisor in May 1991. While minor recordkeeping procedures on the part of the plant were found lacking during the 1994 review, this deficiency was corrected and did not justify returning operations to 100% inspection.

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Conclusion and Recommended Disposition: FSIS believes that Dr. Wyatt was a conscientious and well meaning employee. However, he also repeatedly failed to utilize proper judgment in his antemortem and postmortem dispositions at Establishment 17-D despite supervisory

The Honorable Elaine Kaplan

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intervention. He also exhibited paranoid and obsessive behavior, as well as poor communication skills, which affected his performance, perception of events, and relationships with others. The fact that Dr. Wyatt continues with pertinacity to pursue 10-year old allegations, which he knows have been, for the most part, investigated and reinvestigated, suggests this obsessive nature. While Dr. Wyatt subsequently performed acceptably at less stressful assignments in Colorado for approximately the next three years, he ultimately blamed his mental disability on his alleged mistreatment by FSIS during his tenure at Establishment 17-D, and ultimately declared himself incompetent due to disability. FSIS refutes Dr. Wyatt's unsupported allegations, which attack the professional competence and personal integrity of his supervisory chain, and firmly denies that anyone but Dr. Wyatt is responsible for his marginal performance and decision to retire from service. The agency concludes that the allegations of violations of inspection laws and regulations at Establishment 17-D, the abuse of authority, and the endangerment of the public health are unfounded, without merit, and do not warrant further inquiry.

If you have any questions concerning the response to this complaint, please contact Mr. Mark Leking, Chief, Employee Relations Branch, FSIS, at (202) 720-5657.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Glickman". The signature is written in a cursive, flowing style.

DAN GLICKMAN
Secretary