



U.S. OFFICE OF SPECIAL COUNSEL
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Washington, D.C. 20036-4505

The Special Counsel

November 14, 2023

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-23-000193

Dear Mr. President:

I am forwarding to you a report transmitted to the Office of Special Counsel (OSC) by the Department of the Army (Army) in response to the Special Counsel's referral of a disclosure of wrongdoing in the Army Installations Management Command, Fort Irwin Directorate of Emergency Services (DES), Fort Irwin, California. The whistleblower, [REDACTED] a former Sergeant and Lead Police Officer at Fort Irwin who consented to the release of his name, alleged a violation of law, rule, or regulation, gross mismanagement, an abuse of authority, and a substantial and specific danger to public safety. I have reviewed the disclosure, the agency report, and the whistleblower comments, and in accordance with 5 U.S.C. § 1213(e), I have determined that the report meets all statutory requirements and the findings appear reasonable.¹

The Allegations

[REDACTED] alleged that Fort Irwin Chief of Police [REDACTED] violated Army regulations governing the possession and use of privately owned firearms (POFs). He alleged that [REDACTED] used POFs in place of a government-issued service weapon, failed to register POFs with Fort Irwin pursuant to Army regulations, and used POFs at the Fort Irwin firing range without authorization.

The Agency Report

The agency investigation did not substantiate that [REDACTED] used POFs in place of his government-issued weapon while on duty. First, the agency found that it is common practice for [REDACTED] to arrive for his shift with a POF in his uniform holster, then place his POF in his locker and draw his government-issued service weapon for duty. The report stated that [REDACTED] holds a concealed carry permit pursuant to 18 U.S.C. § 926B (the Law Enforcement Officer Safety Act (LEOSA)) and

¹ [REDACTED]'s allegations were referred to Secretary of the Army Christine Wormuth for investigation pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary delegated her authority to review and sign the report to Assistant Secretary of the Army for Manpower and Reserve Affairs Agnes Gereben Schaefer. The Office of the Army General Counsel directed the Fort Irwin Commander to appoint an investigating officer to conduct the investigation pursuant to Army Regulation (AR) 15-6.

Department of Defense Instruction (DoDI) 5525.12, Army Directive 2021-13. As a LEOSA permit holder, ██████ may lawfully carry a concealed handgun on Fort Irwin for personal protection while off duty and not engaged in the performance of any official duties. Thus, although the whistleblower provided a picture of ██████ with a POF in the holster of his uniform, the agency found that the photograph was taken shortly after ██████ arrived for work, when he was not yet on duty and had not yet drawn his service weapon or placed his POF in his locker. The agency reviewed the Fort Irwin Issuing and Receiving of Weapon logbook and determined that ██████ regularly draws his government-issued weapon at the beginning of his shift and places any POFs in his possession in a locker in accordance with applicable Army regulations. Accordingly, the agency did not substantiate the allegation that ██████ used POFs in place of a government-issued service weapon.

While the agency investigation did not substantiate this allegation, the report identified an area of concern with respect to the carrying configuration of a POF under LEOSA. Specifically, although Fort Irwin DES law enforcement officers, including ██████, are authorized to carry a POF while off duty, the firearm must be concealed and not carried openly. The investigators interviewed the Fort Irwin Provost Marshall/Director of Emergency Services, who stated that he was unaware of the required carrying configuration. As a result of this finding, the agency intends to implement a refresher training on the LEOSA concealed carry requirements in an effort to ensure future compliance with regulatory requirements.

Next, the report concluded that ██████ did not violate Army regulations pertaining to POF registration. The investigation found that ██████ and his spouse possess five firearms in their residence on Fort Irwin, each of which has been registered in the Fort Irwin database of personal weapons in accordance with Army regulations. Further, according to the agency report, all of ██████ POFs comply with California state law restricting the permissible configurations and characteristics of privately owned handguns.

The investigation also did not substantiate the allegation that ██████ used POFs on the Fort Irwin military firing range without authorization. The investigation included a witness interview of the DES employee who served as the Range Safety Officer or Range Officer in Charge at all relevant times, who recounted that he never witnessed ██████ fire a POF on the military/government-only firing range. The agency report did identify an instance in mid-2020 when DES leadership authorized the use of POFs on the range based on the mistaken impression that LEOSA required DES personnel to be certified with their POFs on an approved government range. However, the agency determined that it was an isolated event that occurred on a single occasion prior to ██████'s tenure as the Chief of Police.² Consequently, the agency's findings did not support the allegation that ██████ used POFs on the military/government-only firing range without authorization.

Whistleblower Comments

In his comments, ██████ disputed the agency's findings and expressed his continued belief that ██████ owns unregistered firearms that do not comply with California law. He also disputed

² The report also stated that all POF qualifications necessary for LEOSA certification are now completed on the Fort Irwin Sportsman's Range, at which the use of POFs is authorized, as opposed to the military/government-only range.

the agency's finding, based on the Range Safety Officer's statements during the investigation, that [REDACTED] never used POFs on the military firing range. Finally, the whistleblower also emphasized that LEOSA certifications apply only to concealed firearms, not firearms that are carried openly in the holster of a uniform. Consequently, he expressed his disagreement with the agency's refusal to take disciplinary action for [REDACTED]'s past failures to comply with the concealed-carry requirement of LEOSA.

The Special Counsel's Findings

I thank the whistleblower for bringing forward these allegations to OSC. As required by 5 U.S.C. § 1213(e)(3), I have sent copies of this letter, the agency report, and whistleblower comments to the Chairs and Ranking Members of the Senate Committee on Armed Services and the House Committee on Armed Services. I have also placed redacted copies of these documents and a redacted copy of the referral letter in our public file, which is available at www.osc.gov. This matter is now closed.

Respectfully,

A handwritten signature in blue ink that reads "Karen Gorman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Karen P. Gorman
Acting Special Counsel

Enclosures