



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

March 31, 2016

The Honorable Carrie Hessler-Radelet
Director
The Peace Corps
Paul D. Coverdell Peace Corps Headquarters
1111 20th Street, N.W.
Washington, D.C. 20526

Re: OSC File No. DI-16-0254

Dear Director Hessler-Radelet:

Pursuant to my responsibilities as Special Counsel, I am referring to you whistleblower disclosures that Peace Corps employees may have violated laws, rules, or regulations; engaged in gross mismanagement; and created a substantial and specific danger to public health and safety.¹ The whistleblower in this matter, [REDACTED], discloses that the Peace Corps has failed to take sufficient action to protect the safety of its volunteers. [REDACTED] also discloses that the Peace Corps does not provide adequate services to volunteers who are sexually assaulted during their Peace Corps service. *Pursuant to statute, your agency must investigate this information and submit a report to me by May 30, 2016.*²

The allegations to be investigated are as follows:

- The Peace Corps has placed volunteers, employees, and host country nationals at risk by failing to take appropriate action against volunteers found to have engaged in sexual misconduct.
- The Peace Corps has failed to provide appropriate training to protect the safety of Peace Corps volunteers who are living with host families and working with host country nationals.
- The Peace Corps has failed to take adequate action to protect the safety of Peace Corps volunteers who are traveling in countries of service.
- The Peace Corps does not provide adequate counseling services to Peace Corps volunteers who are sexually assaulted during their service with the Peace Corps.

In February 2012, [REDACTED] became the first director of the Office of Victim Advocacy (OVA). OVA was created by the Kate Puzey Peace Corps Volunteer Protection Act, 22 U.S.C. § 2507c(a). OVA is charged with developing and updating the Peace Corps

¹ 5 U.S.C. § 1213(c)(1).

² See 5 U.S.C. §§ 1213(c)(1), (d).

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assault policies and training, as well as ensuring that volunteers who are victims of sexual assault receive services. 22 U.S.C. § 2507c.³

██████████ alleges that the Peace Corps is failing in its obligation to protect its volunteers from sexual assault in four important ways.

First, ██████████ alleges that the Peace Corps is not taking appropriate action against Peace Corps volunteers who are found to have engaged in sexual assault or misconduct. According to the sexual misconduct policy implemented as a result of the Kate Puzey Act, a volunteer who is found to have engaged in sexual misconduct “may be subject to disciplinary action up to and including administrative separation.” *See* Interim Policy Statements (IPS) 1-12. An “administrative separation” allows the Peace Corps not only to remove the volunteer from Peace Corps service, but it also allows the agency to document the misconduct, ensuring that the agency is on notice of the offense should the volunteer apply for another position at the Peace Corps. ██████████ is aware of at least ten cases in the last five years in which the Peace Corps Office of Inspector General (OIG) found that a volunteer violated the sexual misconduct policy. In each case, the Peace Corps allowed the volunteer to resign or interrupt service rather than subjecting the volunteer to an administrative separation. If a volunteer resigns or interrupts service, he or she could return as a volunteer or employee without any record reflecting his or her misconduct. This practice could place volunteers, employees, or members of the public at risk of being victimized by an individual who is known to have sexually assaulted others in the past.

Second, ██████████ alleges that the Peace Corps has failed to provide adequate training to host families, coworkers, and supervisors regarding appropriate relationship boundaries. According to the whistleblower, many volunteers have reported being sexually harassed and sexually assaulted by members of their host families and by non-Peace Corps coworkers and supervisors.⁴ She is aware of several cases in which members of host families, coworkers, and supervisors have inappropriately touched volunteers and propositioned volunteers for sex.⁵ ██████████ is also aware of cases in which a member of a host family, coworker, or supervisor has raped or sexually assaulted a volunteer. She asserts that the first step in protecting Peace Corps volunteers from this kind of assault is conducting adequate training for the necessary parties, and the Peace Corps has failed to do so. ██████████ claims that she repeatedly raised to management the need to include training on appropriate boundaries for host families and coworkers as part of the Sexual Assault Risk-Reduction and Response Program, but her concerns were dismissed. ██████████ alleges generally that the Peace Corps does not involve OVA in developing training related to sexual assault even though the Kate Puzey Act provides that OVA “shall help develop and update the sexual

³ OVA is also responsible for providing volunteers who are victims of sexual assault or other crimes with “regular updates on the status of their cases if such volunteers have opted to pursue prosecution.” 22 U.S.C. § 2507c(b).

⁴ The Peace Corps assigns each volunteer a supervisor or a co-worker, known as a “counterpart,” to work with at their assigned work site.

⁵ OSC does not include here a description of specific incidents due to the privacy interests of victims but ██████████ is able to provide additional details.

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assault risk-reduction and response training.” 22 U.S.C. § 2507c(b)(1). Thus, OVA is not able to advise the Peace Corps on how to improve and implement training.

Third, [REDACTED] reports that the Peace Corps has failed to take sufficient measures to protect volunteers while they are traveling in their country of service. Peace Corps volunteers are required to travel using the same form of transportation as host country nationals, including public buses or taxis. In locations that lack public transportation, sometimes a volunteer’s only option is to hitch-hike. According to [REDACTED], there have been many incidents of sexual assault, harassment, and other crimes against volunteers while in transit, but the Peace Corps has not modified its policy. [REDACTED] asserts that the Peace Corps must update its policy to require that the Peace Corps provide transportation for volunteers in areas where inadequate public transportation puts volunteers’ safety at risk.

Fourth, [REDACTED] alleges that the Peace Corps denies victims of sexual assault prompt access to services and also artificially caps the amount of services victims are permitted to receive. More specifically, [REDACTED] alleges that the Peace Corps’ procedure requires victims who request counseling to wait days before they are contacted. When a victim contacts OVA directly to seek counseling, the Peace Corps’ Office of Health Services requires OVA to refer volunteers to the Peace Corps Medical Officer. The Medical Officer then sends a consult for services for the volunteer to the Counseling and Outreach Unit. The Counseling and Outreach Unit will not contact the volunteer to arrange for counseling services unless the Medical Officer makes the request, even if OVA has already notified the Counseling and Outreach Unit of the volunteer’s need for counseling services.

[REDACTED] is aware of some cases in which volunteers requested counseling services but the Counseling and Outreach Unit never contacted the volunteer. She alleges that in many cases, the Counseling and Outreach Unit has failed to contact victims of sexual assault the same day, while victims are in crisis and need counseling most urgently. Once a volunteer begins to receive treatment for sexual assault, the Peace Corps limits that treatment to 45 days of medevac treatment in the United States or six counseling sessions. If volunteers require more counseling, the Peace Corps finds them to be “not fit for service,” which requires volunteers to either terminate their service or forego needed counseling.

[REDACTED] also reports that OVA is legally obligated to inform volunteers who have been victims of sexual assault about the status of criminal proceedings related to their assault and ensure that volunteers receive counseling services. *See* 22 U.S.C. § 2507c(b)(1). For OVA to meet its obligations, the Peace Corps must inform OVA when volunteers receive requested counseling services, leave service, or when there is an update on the status of criminal proceedings. [REDACTED] alleges that on several occasions the Peace Corps failed to provide OVA with this information, and she alleges that the Peace Corps does not have an appropriate procedure in place to ensure that OVA is notified of these developments.

Based on her knowledge and experience as the director of OVA, [REDACTED] believes that the Peace Corps is failing to take appropriate measures to protect volunteers and is failing to provide victims of sexual assault with adequate treatment.

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In your agency's report, please respond to the bulleted allegations on page 1, as well as the following questions. The questions should be answered for the entire relevant time period, February 2012 to the present:

1. Has the Peace Corps taken appropriate action against each volunteer found to have engaged in sexual misconduct? If so, describe the action taken.
2. Has the Peace Corps provided appropriate training to host families and host country coworkers to protect the safety of Peace Corps volunteers who are living with host families and working with host country nationals? If so, describe the training.
3. Has the Peace Corps taken adequate steps to protect the safety of Peace Corps volunteers who are traveling in countries of service where public transportation is inadequate? If so, describe the steps taken.
4. Has the Peace Corps provided adequate counseling services to Peace Corps volunteers who have been victims of sexual assault during their service? If so, describe the nature and duration of services available to volunteers and the process by which the services are provided.
5. Has the Peace Corps failed to inform OVA when volunteers receive requested counseling services, when volunteers who have been victims of sexual assault leave service, and when there are updates on criminal proceedings related to crimes against volunteers? If so, please specify the number of times and year(s) in which the Peace Corps failed to provide this information.
6. Did any Peace Corps employee violate the Kate Puzey Act with respect to [REDACTED] allegations? If so, please identify the individual(s) and specify what provision was violated.
7. Has the Peace Corps appropriately managed its response to instances of sexual assault against volunteers?
8. Has the Peace Corps' failure to provide training to individuals who regularly interact with volunteers and to take steps to protect volunteers in transit presented a substantial and specific danger to public health or safety?

* * * *

OSC is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a), (b). If I find, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, I am required to advise the appropriate agency head of my findings, and the agency head is required to conduct an investigation of the allegations and submit a written report by May 30, 2016. § 1213(c)(1). OSC will not routinely grant an extension of time to an agency in conducting a whistleblower disclosure investigation. However, OSC will consider an extension request where an agency concretely

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evidences that it is conducting a good faith investigation that will require more time to successfully complete.

Upon receipt, I will review the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. § 1213(e)(2). I will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under § 1213(e)(1).

I have concluded that there is a substantial likelihood that the information the whistleblower provided to OSC discloses a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, and a substantial and specific danger to public safety. I am referring this information to you for an investigation of these allegations and a report of your findings. By law, this report should be reviewed and signed by you personally. Nevertheless, should you delegate your authority to review and sign the report to the Inspector General, or other agency official, the delegation must be specifically stated and must include the authority to take the actions necessary under § 1213(d)(5). The requirements of the report are set forth at 5 U.S.C. § 1213(c) and (d). A checklist for investigation and reporting is enclosed. Please note that where specific violations of law, rule, or regulation are identified, these references are not intended to be exclusive. As you conduct your review of these disclosures and prepare your report, OSC requests that you include information reflecting any dollar savings, or projected savings, and any management initiatives related to these cost savings, that may result from your review.

As a matter of policy, OSC also requires that your investigators interview the whistleblower at the beginning of the agency investigation when, as in this case, the whistleblower consents to the disclosure of her name. As the originator of the disclosure, [REDACTED] can provide additional information and an explanation of her allegations, thereby streamlining the agency investigation.

In some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to § 1213 allege retaliation once the agency is on notice of their claims. I urge you to take all appropriate measures to ensure that those who report wrongdoing, are suspected of reporting wrongdoing, or who take part in investigations of alleged wrongdoing are protected from such retaliation and from other prohibited personnel practices. I also urge you to inform those charged with investigation of the allegations that retaliation is unlawful and will not be tolerated.

At the outset, or during the course of your investigation, your investigative team may have questions regarding the statutorily mandated report you will deliver to OSC under § 1213. OSC attorneys are available at any time in person or by telephone to discuss OSC's statutory process, expectations for credible, consistent, and complete reports, and for general assistance. Please contact Karen Gorman, deputy chief, Disclosure Unit, at 202-254-3677 to initiate this process.

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As required by § 1213(e)(3), I will send copies of the report, along with any comments on the report from the whistleblowers and any comments or recommendations from me, to the President and the appropriate oversight committees in the Senate and House of Representatives. Unless the report is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs, OSC will place a copy of the report in a public file in accordance with § 1219(a). To prevent public disclosure of personally identifiable information (PII), OSC requests that you ensure that the report does not contain any sensitive PII, such as Social Security numbers, home addresses and phone numbers, personal e-mail addresses, dates and places of birth, and personal financial information. OSC does not consider names and titles to be sensitive PII requiring redaction. Agencies are requested not to redact such information in reports provided to OSC for the public file.

Please refer to our file numbers in any correspondence on these matters. If you need further information, please contact Ms. Gorman. I am also available for any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolyn N. Lerner". The signature is fluid and cursive, with the first name "Carolyn" being more prominent than the last name "Lerner".

Carolyn N. Lerner

Enclosures

cc: The Honorable Kathy A. Buller, Inspector General

Checklists
for an Investigation Under 5 U.S.C. § 1213

INVESTIGATION AND REPORT CHECKLIST

The report includes:

- ☐ a *summary of the information investigated*, including:
 - the information transmitted by OSC for investigation;
 - the factual and legal questions submitted by OSC for investigation; and
 - any other information investigated.
- ☐ a *description of the conduct of the investigation*, including:
 - the identity of each investigator;
 - the identity of each witness or subject;
 - whether and when the whistleblower was interviewed;
 - whether each individual identified by OSC was interviewed;
 - whether potential interviewees were afforded anonymity, confidentiality, advance notice, or other accommodations;
 - descriptions of the investigative interviews;
 - whether the agency relied on any previous inquiry in making its findings and, if so, whether the previous inquiry satisfied the requirements of this checklist;
 - a description of any other conduct that is important for evaluating the findings.
- ☐ a *summary of any evidence obtained* from the investigation, including:
 - a summary of all material evidence;
 - explanations of how the agency weighed particular, conflicting evidence; and
 - a summary of any other evidence that is important for evaluating the findings.
- ☐ a *listing of any violation or apparent violation* of any law, rule, or regulation, including:
 - all relevant citations and excerpts, regardless of whether violations were found;
 - legal findings on whether each of these laws, rules, or regulations were violated; and
 - for each violation, the identity of the individual who committed the violation.
- ☐ an *explicit finding for each factual or legal question* submitted by OSC, as well as:
 - the legal burdens of proof and other standards used in making the findings.
- ☐ a *description of any action taken or planned* as a result of the investigation, including:
 - changes in agency rules, regulations, or practices;
 - the restoration of any aggrieved employee;
 - disciplinary action;
 - referral to the Attorney General of any evidence of a criminal violation; and
 - any other actions taken or planned as a result of the investigation.

See 5 U.S.C. §§ 1213(c)(1)(A), (c)(1)(B), (d), (e)(2).

The report also:

- ☐ includes information about actual or projected financial savings as a consequence of the investigation, as well as any policy changes related to the financial savings, and
- ☐ does not include personally identifiable information, other than names or titles.

REPORT SUBMISSION CHECKLIST

Your agency head:

- ☐ a) *reviewed and signed the report* or
- b) delegated their authority to review and sign the report. The delegation is specifically stated in writing and grants the authority to take any necessary action resulting from the investigation. The delegate reviewed and signed the report.

Your agency:

- ☐ a) *submitted the report by the deadline* specified in the transmission letter or
- b) submitted the report by another date specified in writing by the Special Counsel.

See 5 U.S.C. §§ 1213(c)(1)(B), (d), (e)(1).