



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

SAF/MR
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FEB 07 2022

The Honorable Henry J. Kerner
Special Counsel
United States Office of Special Counsel
1730 M Street N.W., Suite 300
Washington, DC 20036-4505

Re: OSC File No. DI- 20-000874

Dear Mr. Kerner:

As agency head, the Secretary of the Air Force delegated to me his authority to review, sign, and submit to you the report required by Title 5, U.S.C. Section 1213(c) and (d). I am responding to your August 7, 2020 correspondence, referring for investigation whistleblower disclosures from [REDACTED] alleging that three responsible management officials in the 47th Maintenance Directorate at Laughlin AFB, Texas, engaged in conduct that violated a law, rule, or regulation, or engaged in gross mismanagement, gross waste of funds or abuse of authority. The initial two allegations were:

Allegation 1. Both the primary and alternate fuel system maintenance hangars do not adhere to design requirements specified in the Department of Defense's Unified Facilities Criteria (UFC) 4-211-01 Chapter 5 and Air Force Standard Design documents; and

Allegation 2. [REDACTED] also alleged that employees in the Maintenance Squadron (MXM) corrosion section have engaged in theft and misuse of government property.

Consistent with Office of Special Counsel guidance, the two initial allegations to be investigated were expanded to include the following allegations:

Allegation 1. Building 53, the primary fuel cell maintenance hangar at Laughlin AFB, TX, is not in compliance with health and safety systems and protocols as required by the Department of Defense's Unified Facilities Criteria 4-211-01, dated May 18, 2020, as well as other applicable issuances. **NOT SUBSTANTIATED.**

Allegation 1a. The action(s) and/or failure(s) to act by [REDACTED] Acting Director of Maintenance, 47th Maintenance Directorate, constituted a

substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED.**

Allegation 1b. The action(s) and/or failure(s) to act by [REDACTED] Acting Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED.**

Allegation 1c. The action(s) and/or failure(s) to act by [REDACTED] Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED.**

Allegation 1d. The action(s) and/or failure(s) to act by [REDACTED] Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED.**

Allegation 2. Building 51, the alternate fuel cell maintenance hangar at Laughlin AFB, TX, is not in compliance with health and safety systems and protocols as required by the Department of Defense's Unified Facilities Criteria 4-211-01, dated May 18, 2020, as well as other applicable issuances. **SUBSTANTIATED.**

Allegation 2a. The action(s) and/or failure(s) to act by [REDACTED] Acting Director of Maintenance, 47th Maintenance Directorate, constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED.**

Allegation 2b. The action(s) and/or failure(s) to act by [REDACTED] Acting Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **SUBSTANTIATED.**

Allegation 2c. The action(s) and/or failure(s) to act by [REDACTED] Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED**

Allegation 2d. The action(s) and/or failure(s) to act by [REDACTED] Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED**

Allegation 3. Between on or about 1 October 2018 and on or about 30 September 2019, members of the Corrosion Control Section of the 47th Maintenance Directorate

at Laughlin AFB, TX misused government property by consuming respirators, coveralls, and sandpaper at a rate significantly exceeding the consumption rates of similar organizations in violation of Air Force Instruction 23-111, *Management of Government Property in Possession of the Air Force*, paragraph 7. **NOT SUBSTANTIATED.**

Allegation 3a. The actions and/or failure(s) to act by [REDACTED], Corrosion Control Supervisor, 47th Maintenance Directorate, constituted a gross waste of funds in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*. **NOT SUBSTANTIATED.**

For the first allegation and its sub-allegations, the preponderance of the evidence, including the report from the Air Force Civil Engineering Center (AFCEC) subject matter expert (SME) on building compliance, confirmed that Building 53, which served as Laughlin AFB's Primary Fuels Maintenance Facility, was designed and constructed as an Aircraft Fuel System Maintenance Facility in full compliance with the applicable guidance at the time. Therefore, Allegations 1 and all of its sub-allegations were not substantiated.

In regards to the second allegation and its sub-allegations, based on the preponderance of the evidence, including the AFCEC SME's determination, Building 51, which served as Laughlin AFB's Alternate Fuels Maintenance Facility, was not originally designed, constructed or subsequently modified to meet the requirements of a primary fuel system maintenance facility. Consequently, it could not be designated/approved as an alternate fuel system maintenance facility. Hence, the Report of Investigation findings determined that [REDACTED] abused his authority by approving Building 51 as an alternate facility. The preponderance of the evidence did not show that the actions taken by [REDACTED] regarding Building 51 rose to the level of an abuse of authority. Therefore, Allegation 2 and sub-allegation 2b were substantiated, while sub-allegations 2a, 2c and 2d were not substantiated.

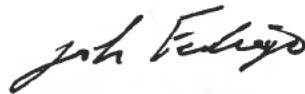
For the third allegation, although the Report of Investigation contained evidence that the Government property accountability program in the Laughlin AFB's Corrosion Control Section suffered from personnel inexperience and lack of training, the preponderance of the evidence did not show a violation of any law, rule or regulation related to the allegation that members of the Corrosion Control Section misused government property by consuming respirators, coveralls, and sandpaper at a rate significantly exceeding the consumption rates of similar organizations. Therefore, Allegation 3 and its sub-allegation were not substantiated.

After initial review of the case, SAF/IGQ requested AETC/IG further consider its original analysis. This additional analysis, which resulted in an Addendum to the original Report of Investigation, did not alter the original finding of two substantiated allegations.

I am enclosing the Report of Investigation and the Addendum for your official use. I understand you will provide the full copy of this Report and Addendum to the President and the House and Senate Armed Services Committees for their review and to [REDACTED]. As directed by the Office of Special Counsel in its Appendix to the August 7, 2020 referral letter, we will also provide a redacted version of the Report and Addendum in which agency employees are

identified by position title vice name with an attached key identifying the employees by name and position. The redacted copies will be published on your webpage.

We appreciate your efforts to bring this matter to our attention. If the Department of the Air Force can be of any further assistance, please contact Mr. Richard Desmond, Associate General Counsel, Fiscal, Ethics and Administrative Law at (703) 695-0491 or richard.desmond.4@us.af.mil.

A handwritten signature in black ink, appearing to read "John Fedrigo".

JOHN A. FEDRIGO
Acting

REPORT OF INVESTIGATION**OSC FILE No. DI-20-000874****TABLE OF CONTENTS**

| | |
|----------------------------------------------------------|----|
| Information Initiating the Investigation..... | 2 |
| Conduct of the Investigation..... | 3 |
| Appointment of Investigator..... | 3 |
| Allegations..... | 3 |
| Legal Framework..... | 5 |
| Section 1213 Report Requirement..... | 5 |
| Facility Compliance Requirements..... | 5 |
| Management of Property..... | 7 |
| Other Relevant Regulations..... | 8 |
| Summary of Evidence..... | 9 |
| Facilities Compliance..... | 10 |
| Management of Property..... | 13 |
| Analysis..... | 18 |
| Facilities Compliance..... | 18 |
| Abuse of Authority..... | 20 |
| Danger to Public Health and Safety..... | 21 |
| Management of Property..... | 22 |
| Gross Waste of Funds..... | 25 |
| Conclusion..... | 25 |
| Appendices..... | 26 |
| Appendix A – Witness List..... | 26 |
| Appendix B – Reference Documents (List of Exhibits)..... | 27 |
| Appendix D – OSC Tasking (w/complaint attachment)..... | 28 |

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OSC SUMMARY OF INFORMATION INITIATING THE INVESTIGATION

As directed by their letter dated August 7, 2020 and signed by the Special Counsel, the Office of Special Counsel (OSC), referred whistleblower disclosures alleging that employees at Laughlin Air Force Base (AFB), Texas engaged in conduct that may constitute a violation of law, rule, or regulation; a gross waste of funds, an abuse of authority and a substantial and specific danger to public health and safety to the Secretary of the Air Force (SECAF) for investigation. According to OSC, the whistleblower, Mr. Juan Cedillo, the Director of Component Maintenance¹, who has consented to the release of his name, disclosed several allegations involving management and facilities at Laughlin AFB.

After review and based on the information disclosed by the whistleblower, OSC “concluded that there is a substantial likelihood that the information provided to OSC discloses a violation of law, rule or regulation; gross mismanagement; and a gross waste of funds.”

According to the OSC Referral Letter, the allegations to be investigated include:

Both the primary and alternate fuel system maintenance hangars at Laughlin AFB do not adhere to design requirements specified in the Department of Defense’s Unified Facilities Criteria (UFC) 4-211-01 Chapter 5 and Air Force Standard Design documents.

According to OSC, “Mr. Cedillo noted several areas in which the fuel system maintenance hangars do not comply with UFC and Air Force Standard Design documents. He explained that the primary and alternate fuel system maintenance hangars were neither specifically built nor modified for use as an aircraft fuel system maintenance hangar, as required under UFC 4-211-01 Ch. 5-12.3. Further, neither building has a ventilated cell repair room, a positive/negative ventilation system, a purge ventilation system, or an emergency ventilation system, all of which are required under the above provision. Mr. Cedillo stated that the lack of these ventilation systems could cause toxic vapor infiltration to move into the offices, break room and support equipment room. Additionally, he alleged that the primary fuel cell maintenance aircraft hangar does not meet minimum clearance separation dimensions of 10 feet between aircrafts and walls. According to Mr. Cedillo, there is currently a clearance of approximately eight inches between aircraft and the facility walls, which is far below the required distance and may not be wide enough for employees to exit in case of an emergency. Mr. Cedillo also alleged the alternate fuel cell maintenance hangar does not have any heat, ventilation, or fire suppression systems throughout the building.”

Employees in the 47th Maintenance Directorate², Component Maintenance Division (47 MXM), Corrosion Control Section of corrosion section have engaged in theft and misuse of government property.

¹ Mr. Cedillo’s position as Director of Component Maintenance is equivalent to that of a Squadron Commander in this organization (Appendices B21 and B22; Appendix A2, Page 7, Lines 1-8).

² The office symbol for the 47th Maintenance Directorate is 47 MXD. However, 47 MX will be used for the purposes of this report for clarity as multiple variations of MX are used to identify subordinate organizations within the directorate.

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According to OSC, “Mr. Cedillo also alleged that employees in the MXM corrosion section have engaged in theft and misuse of government property. He alleged records show that corrosion section employees have reportedly used an excessive amount of equipment and materials in relation to the work they perform. Specifically, Mr. Cedillo noted that the corrosion section’s 24 employees reported using 63 full face respirators, 130 half-face respirators, and approximately 5,000 coveralls over the course of a year. He further noted that the corrosion section inventory audit in early 2020 found that over \$10,000 worth of equipment and materials could not be accounted for.”

In their referral letter, OSC also noted, “that specific allegations and references to specific violations of law, rule, or regulation are not intended to be exclusive.”

CONDUCT OF THE INVESTIGATION

The OSC referral memo directing investigation was forwarded to the Air Force General Counsel and Department of the Air Force Inspector General to the Air Education and Training Command Inspector General (AETC/IG). On August 18, 2020, the Department of the Air Force Inspector General (DAF/IG) tasked AETC/IG to conduct an investigation into the above-referenced allegations as contained in the OSC Referral Letter.

Appointment of the Investigator

On August 28, 2020, prior to the start of the investigation, an AETC/IGQ staff member conducted an initial complaint clarification interview with Mr. Cedillo. On September 24, 2020, the AETC/IGQ staff member was appointed as the investigating officer (IO) to conduct the investigation and a legal advisor from AETC Staff Judge Advocate (AETC/JA) was assigned to the investigation. Subsequently, a technical advisor from the Air Force Civil Engineer Center (AFCEC) was identified to serve as a subject matter expert (SME) for issues regarding facilities compliance. Once the investigation commenced, the IO interviewed Mr. Cedillo under oath on October 5, 2020.

The allegations listed numerically below were derived from those presented by OSC and after clarification with the complainant. Sub-allegations were listed alphabetically to identify subjects for each of the numbered allegations.

Allegation #1. Building 53, the primary fuel cell maintenance hangar at Laughlin AFB, TX, is not in compliance with health and safety systems and protocols as required by the Department of Defense’s Unified Facilities Criteria 4-211-01, dated May 18, 2020, as well as other applicable issuances.

Allegation #1a. The action(s) and/or failure(s) to act by [Acting Director of Maintenance], Acting Director of Maintenance³, 47th Maintenance Directorate, constituted a substantial or specific danger to public health or safety in accordance with

³ [Acting Director of Maintenance]’s position as Acting Director of Maintenance is operationally equivalent to that of a Group Commander in this organization.

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Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #1b. The action(s) and/or failure(s) to act by [Acting Director of Maintenance], Acting Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #1c. The action(s) and/or failure(s) to act by [Interim Deputy Director of Maintenance], Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #1d. The action(s) and/or failure(s) to act by [Interim Deputy Director of Maintenance], Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #2. Building 51, the alternate fuel cell maintenance hangar at Laughlin AFB, TX, is not in compliance with health and safety systems and protocols as required by the Department of Defense's Unified Facilities Criteria 4-211-01, dated May 18, 2020, as well as other applicable issuances.

Allegation #2a. The action(s) and/or failure(s) to act by [Acting Director of Maintenance], Acting Director of Maintenance, 47th Maintenance Directorate, constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #2b. The action(s) and/or failure(s) to act by [Acting Director of Maintenance], Acting Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #2c. The action(s) and/or failure(s) to act by [Interim Deputy Director of Maintenance], Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #2d. The action(s) and/or failure(s) to act by [Interim Deputy Director of Maintenance], Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

Allegation #3. Between on or about 1 October 2018 and on or about 30 September 2019, members of the Corrosion Control Section of the 47th Maintenance Directorate at Laughlin AFB, TX misused government property by consuming respirators, coveralls, and sandpaper at a rate significantly exceeding the consumption rates of similar organizations in violation of Air

Force Instruction 23-111, *Management of Government Property in Possession of the Air Force*, paragraph 7.

Allegation #3a. The actions and/or failure(s) to act by [Corrosion Control Supervisor], Corrosion Control Supervisor, 47th Maintenance Directorate, constituted a gross waste of funds in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*.

During the course of the investigation the following individuals provided sworn testimony under oath:

- (A1) Mr. Juan Cedillo (Complainant), Director of Component Maintenance, 47 MX
- (A2) [Acting Director of Maintenance] (Subject), Director of Maintenance, 47 MX
- (A3) [Interim Deputy Director of Maintenance] (Subject), Interim Deputy Director of Maintenance, 47 MX
- (A4) [Corrosion Control Supervisor]⁴ (Subject), Corrosion Control Supervisor, 47 MX
- (A5) [former Commander, 47 FTW], former Commander, 47 FTW
- (A6) [Corrosion Control Supervisor]⁴ (Witness), Corrosion Control Supervisor, 47 MX
- (A7) [Sign Painter], Sign Painter, Corrosion Control Section, 47 MX

The AETC/IG office provided notice of the investigation to the Commander, 47th Flying Training Wing (47 FTW) and to the Commander, 19th Air Force (19 AF), prior to the IO's first visit to Laughlin AFB. Prior to and during the course of the investigation, the IO collected and examined relevant documentation, including those documents provided by the complainant and subjects. The SME from the AFCEC accompanied the IO to Laughlin AFB on 6 October 2020. Pertinent legal authorities and other subject matter experts were consulted. Governing regulations, directives and guidance were researched and reviewed as well.

The standard of proof used in determining the finding for each allegation was the preponderance of the evidence, *i.e.*, was it more likely than not that the alleged violation occurred.

Pursuant to 5 U.S.C. § 1213(c), an agency is afforded 60 days to complete the required report of investigation. The Air Force has been granted five extensions for its response to the OSC Referral Letter, which is now due on 3 August 2021.

LEGAL FRAMEWORK

Section 1213 Report Requirement

Pursuant to 5 U.S.C. § 1213(d), the Secretary's report to OSC is required to include, among other things, "a listing of any violation or apparent violation of any law, rule, or regulation."

⁴ [Corrosion Control Supervisor] was interviewed twice for this investigation. Initially as a witness, and subsequently as a subject.

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Facility Compliance Requirements

Unified Facilities Criteria (UFC) 4-211-01, *Aircraft Maintenance Hangars*, paragraph 1-1.1 explains that the information in this UFC applies to the design of all new construction projects, to include additions, alterations, and renovation projects within the United States and its territories and possessions and outside of the United States and its territories and possessions.

Technical Order (TO) 1-1-3, *Inspection and Repair of Aircraft Integral Tanks and Fuel Cells*, establishes United States Air Force (USAF) policy for the maintenance of aircraft fuel tanks/cells. Included in this TO are general requirements for preparation of an aircraft for fuel systems maintenance and inspection. The requirements of this TO are applicable to all aircraft in the Air Force inventory. Chapter 2 of this TO provides safety, health and environmental requirements necessary to perform fuel systems repair, while Chapter 3 provides a description of the areas and facilities required, including primary, alternate, and temporary repair facilities and open repair areas.

TO 1-1-3, paragraph 1.5.2 and its subparagraphs identify personnel/office responsibilities concerning fuel system repair facilities/areas. These include the MXG/CC (or equivalent), Safety Office, Bioenvironmental Engineering Flight (BEF), and Fire Protection Services, which each have responsibilities directly related to the compliance of fuel systems repair facilities/areas with safety, health and environmental instructions/directives and coordination/approval of the annual Master Entry Plan (MEP).

TO 1-1-3, chapter 2, paragraphs 2.2.2 and 2.3 state:

2.2.2 Acceptable Risk. Certain hazards are present during fuels systems repair; this is normal. As long as the appropriate precautionary measures are taken, there is no increased risk associated with routine repair operations. Deviations from safety practices that increase the risk to the worker, aircraft or facility shall not be permitted. Supervisory personnel shall ensure equipment is maintained in good working order and personnel adhere to the requirements of this chapter.

2.3 Assumptions and alternatives. Some fuel tank/cell repair and inspections is accomplished without fuel or other flammable materials being present. In these cases, the MXG/CC⁵, or equivalent, may, with coordination/concurrence from Safety, Bioenvironmental Engineering Flight (BEF) and Fire Protection Services, rule that certain requirements of this chapter may be waived. This may be done after a review of the work procedures, an assessment of the work environment, and documentation of the absence of the hazards.

TO 1-1-3, chapter 3 explains that the use of segregated repair facilities/areas for fuel systems repair is essential for safe and efficient operations. Paragraph 3.1.2 states that all fuel systems repair facilities shall be pre-designated and approved for use by the MXG/CC, or equivalent, with coordination from Fuel Systems Section Chief, Safety, Bioenvironmental Engineering Flight (BEF), and Fire Protection Services.

⁵ MXG/CC – Maintenance Group Commander. The MXG/CC equivalent for 47 MX is the Director of Maintenance.

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TO 1-1-3, chapter 3, paragraph 3.1.3 provides repair facility/area definitions and states that all approved fuel systems repair facilities/areas shall be identified in the Master Entry Plan (MEP) and classified as either: a primary repair facility, an alternate repair facility or an open repair area. Temporary repair facilities, if required, shall be listed on a separate Addendum to the MEP. The facility types relevant to this investigation are defined as follows:

3.1.3.1 defines the primary repair facility as one that was specifically built, or modified, for use as an aircraft fuel systems repair hangar. It is the recommended, or preferred, location to perform open fuel tank/cell repair and shall be used when in a safe condition and not occupied by aircraft maintenance actions.

3.1.3.2 defines an alternate repair facility as one that was specifically built, or modified, for use as an aircraft fuel systems repair hangar. Essentially, it is a second primary or “overflow” repair facility. If the unit has a designated alternate repair facility, it is the next recommended, or preferred, location to perform open fuel tank/cell repair; it should be used when the primary repair facility is unavailable. As a minimum, this facility shall meet the same requirements as a primary repair facility.

3.1.3.4 defines a temporary repair facility as one that was NOT specifically built, or modified, for use as an aircraft fuel systems repair hangar but, has been approved and certified for use in accordance with Paragraph 3.2.5. Under normal circumstances, the use of a temporary facility shall be considered as a last resort.

TO 1-1-3, paragraph 3.2 states that primary/alternate fuel systems repair facilities shall have fire suppression, alarm/notification systems, electrical systems and structural features that meet the fire and safety Engineering Technical Letter (ETL)/criteria for fuel systems repair facilities. Facilities meeting the previous fire and safety requirements for fuel systems repair facilities in AFM 88-15, AFR 88-15 or subsequent ETLs prior to ETL 02-15 are compliant if they meet the requirements of ETL 98-8, Existing Aircraft Hangars.

TO 1-1-3, paragraph 3.2.1.1 explains primary/alternate fuel systems repair facilities may continue to be used in the event that systems required by the applicable ETLs become inoperative, provided that facility is immediately inspected and deemed safe by the agency that owns the faulty system and an authorized portable system is available for use.

TO 1-1-3, paragraph 3.2.3 and its sub-paragraphs identify the requirements for existing fuel systems repair facilities.

TO 1-1-3, paragraph 3.2.5 states that temporary facilities shall only be used after consideration is given to the timely availability of approved primary/alternate repair facilities/open areas. Additionally, it explains that temporary repair facilities shall not be considered strictly for ease of maintenance, but rather as a last resort during peak workloads to prevent mission degradation. Sub-paragraph 1 of this paragraph states that temporary repair facilities shall be initially certified by the Entry Authority, Safety and Fire Protection Services for open fuel tank/cell repair. Facilities shall be identified on an Addendum to the MEP as

temporary and may be used for 90 days from the date of certification.

Management of Property

Air Force Instruction (AFI) 23-111, *Materiel Management: Management of Government Property in Possession of the Air Force*, prescribes basic guidance and responsibilities for managing government property under Air Force control through authorizing and directing commanders to manage government property under their command.

AFI 23-111, chapter 7, paragraphs 7.10 and 7.6 state:

7.10. At the unit level record and account for Government property that does not require accountable property system of recording, such as Government Purchase Card (GPC) transactions that do not meet the threshold for accountable property system of record recording.

7.6. Initiate financial liability investigation of property loss, for government property that is lost, damaged or stolen. Refer to DoD 7000.14-R, Vol 12, Ch 7, *Financial Liability for Government Property Lost, Damaged, Destroyed, or Stolen*.

The Defense Financial Management Regulation 7000.14-R, Volume 12, Chapter 7 addresses inquiries and investigations into the loss of property. Section 070204, *Initiation of General Inquiries and Investigations* states:

Upon discovery of loss, damage, destruction, or theft of government-owned property (real or personal) of any value, the first line supervisor or, in the case of military, immediate supervisor within the chain of command, shall conduct an inquiry to determine if the situation warrants a more formal inquiry, i.e., an investigation.

AFI 21-101, *Aircraft and Equipment Maintenance Management: Air Education and Training Command Supplement*, paragraph 8.3.1 states that the Flight Commander or Superintendent will designate Composite Tool Kit (CTK) custodians. Paragraph 8.3.1.1 explains that CTK custodians are responsible for tool, hazardous material (HAZMAT), and consumable asset accountability and control.

Other Relevant Regulations

In determining whether an Air Force (AF) employee's actions constituted an abuse of authority, gross waste of funds, or a substantial or specific danger to public health or safety, the AF is guided by the definitions prescribed in AFI 51-1102, *Cooperation with the Office of Special Counsel*. AFI 51-1102 states that abuse of authority:

Occurs when there is an arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or to preferred other persons. The definition of abuse of authority does not contain a *de minimis* standard or threshold.

AFI 51-1102 defines gross waste of funds as “a more than debatable expenditure that is significantly out of proportion to the benefit reasonably expected to accrue to the government.”

AFI 51-1102 states that a disclosure concerning a “danger to public health or safety” must be substantial and specific. A variety of factors may determine when a disclosed danger is sufficiently substantial and specific. Two of these are (1) the likelihood of harm resulting from the danger and (2) when the alleged harm may occur. If the disclosed danger could only result in harm under speculative or improbable condition, or is not likely to occur in the immediate or near future but rather manifest only in the distant future, it would not qualify. The nature of the harm, that is the potential consequences, affects the substantiality of the danger.

SUMMARY OF EVIDENCE

The Complainant, Mr. Juan Cedillo, was assigned as the Director of Component Maintenance, 47th Maintenance Directorate, Laughlin AFB, Texas, in approximately November 2018. In this capacity, Mr. Cedillo’s responsibilities included management oversight of component maintenance activities related to the support of T-1, T-6, and T-38 weapons systems and associated aerospace ground equipment across eight separate shops which included Fuels Branch and Corrosion Control Branch. Mr. Cedillo testified that on or about April 2019, approximately six months after assuming duties as Director of Component Maintenance, he had become aware of what he alleged were non-compliance issues related to health and safety concerning Laughlin’s fuel maintenance facilities. Mr. Cedillo also provided that on or about early 2020, Laughlin’s building 51 had been put into service as an alternate fuel system repair facility which he alleged was also a violation (Appendix A1, Page 3, Line 7 through Page 5, Line 10). Additionally, on or about August 2019, Mr. Cedillo found issues related to accountability of supplies within the Corrosion Control Branch (Appendix A1, Page 28, Line 36 through Page 29, Line 20; Appendix A1, Page 35, Lines 2-29).

Information concerning the positions and responsibilities of each of the subjects and key witnesses who provided testimony for this investigation is as follows: [Acting Director of Maintenance] and [Interim Deputy Director of Maintenance] led the 47 MX since early 2020. [former Director of Maintenance] was the Director of Maintenance prior to [Acting Director of Maintenance]. [Acting Director of Maintenance] served as Director of Maintenance since February 2020. [Acting Director of Maintenance] was assigned temporarily as Acting Director, and later officially assigned as Director in January 2021. [Interim Deputy Director of Maintenance] has served as the interim Deputy Director of Maintenance since February 2020 (Appendix A2, Page 2, Lines 28-34; Appendix A3, Page 2, Lines 37-44; Appendix A5, Page 8, Lines 6-8).

[Corrosion Control Supervisor] began working in Corrosion Control in 1990 and served as the Corrosion Control Supervisor for approximately eleven years (Appendix A6, Page 2, Lines 12-19). Among her duties were communicating budget requirements for her section, controlling costs, determining cause for excessive costs, and implementing corrective actions to resolve issues in a timely manner (Appendix B12). [Sign Painter] worked for [Corrosion Control Supervisor] in Corrosion Control, and has been in her current position since August 2014. [Sign Painter] was employed as a sign painter within Corrosion Control and also served as the

Composite Took Kit (CTK) custodian responsible for tool, HAZMAT, and consumable asset accountability and control (Appendix A7, Page 2, Lines 26-43; Appendix B18; Appendix B20).

[Former Commander, 47 FTW] served as the Commander, 47 FTW, from October 2018 through July 2020 (Appendix A5, Page 2, Lines 28-35). On or about 31 July 2020, [former Commander, 47 FTW] relinquished command of 47 FTW to [subsequent Commander, 47 FTW].

Facilities Compliance

Mr. Cedillo alleged that both the primary and alternate fuels maintenance facilities did not adhere to design requirements specified by the Department of Defense's Unified Design Criteria (UFC) 4-211-01, *Aircraft Maintenance Hangars*, Air Force Standard Design Documents for Fuel Cell Maintenance Hangars, and Air Force Technical Order (TO) 1-1-3, *Inspection and Repair of Aircraft Integral Tanks and Fuel Cells*. During testimony, Mr. Cedillo specified several areas of non-compliance regarding Laughlin's fuel maintenance facilities which he referred to as the primary fuel barn⁶ [Building 53] and the alternate fuel barn [Building 51]. Mr. Cedillo claimed to have discussed space limitations with [former Commander, 47 FTW] in late 2019, and later provided a list of Laughlin's fuel maintenance constraints to [Acting Director of Maintenance] in early 2020.

The initial discussion Mr. Cedillo had with [former Commander, 47 FTW] in 2019 concerned the limited size of Laughlin's primary fuel maintenance facility and how it negatively affected mission accomplishment. Mr. Cedillo later focused his efforts on getting a larger fuel maintenance facility built as he felt that he had [former Commander, 47 FTW]'s support (Appendix A1, Page 4, Lines 9-12; Appendix A5, Page 5, Lines 3-7). Mr. Cedillo stated "... *nobody has ever invested in infrastructure for aircraft maintenance in the last 20, 30 years. So, it wasn't the Wing... last Wing Commander [[former Commander, 47 FTW]'s] problem, it's been going on for a while. But he's the one who was working with me trying... or was feeding me lies or whatever you want to call it to uh, that he was doing to get me a new fuel barn...*" (Appendix A1, Page 6, Lines 26-29).

Mr. Cedillo provided [Acting Director of Maintenance] feedback indicating the existing maintenance facility did not meet safety standards or size requirements, and recommended that a larger four bay fuel maintenance facility be constructed as a long term solution. Mr. Cedillo stated that during the 19 AF inspection of the 47 MX conducted in January 2020, "... *when he [Acting Director of Maintenance] came down for the inspection to give to two-star General. I made that after I talked to [Acting Director of Maintenance] during the inspection he said, well make me a PowerPoint of all your constraints and all your safety issues and send it to me, and I did*" (Appendix A1, Page 7, Lines 1-4; Appendix B11, Page 3). [Acting Director of Maintenance], who was part of the 19 AF Logistics Division team that conducted the assessment of the 47 MX, did not recall identifying any issues related to health and safety noncompliance concerning fuel maintenance facilities. [Acting Director of Maintenance] also explained that action was taken on a recommended improvement area (RIA) observation listed on the final assessment report. He testified that a bioanalysis of the bladder room ventilation had later been

⁶ 47 FTW personnel refer to the local aircraft fuel systems repair facilities as the "Primary Fuel Barn" and "Alternate Fuel Barn" although by technical definition the only types of fuel systems repair facilities on Laughlin AFB are primary, open and temporary.

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accomplished and passed successfully (Appendix A2, Page 3, Line 43 through Page 4, Line 1; Appendix B10, Page 43). Additionally, [Acting Director of Maintenance] stated *“Um, so there’s been a whole lot of people down there, right so first off, I’ve been down there 20 times talking to those cats asking what they need. You know, there’s a Squadron Commander [Juan Cedillo] and a Superintendent [[Squadron Superintendent]] between myself and the fuels Section Chief. So we had a fuel SAV (Staff Assistance Visit)⁷ [SAV Personnel], we had a logistics assessment. I had another 19th Air Force SAV come in here. I had a UEI⁸ come in here, manning... a couple of manning assists, two or three I think to help get caught up on the fuels backlog. We had a Wing Safety inspection. Our own internal QA [quality assurance] and Safety um, yeah, so... nothing safety related from any of that stuff.”* (Appendix A2, Page 6, Lines 38-44).

[Interim Deputy Director of Maintenance], the 47 MX interim Deputy Director of Maintenance, explained that fuel maintenance production improved as a result of recommendations made during the 19th Air Force assessment of the Maintenance Directorate. [Interim Deputy Director of Maintenance] stated that the *“alternate fuel barn”* [Building 51] had not been utilized effectively as it had been used as storage for a T-38 that had previously crashed, but steps were taken to remove the aircraft so the hangar could be utilized for maintenance purposes (Appendix A3, Page 6, Lines 2-27). Mr. Cedillo alleged that Laughlin’s building 51 had been put into service as an alternate fuel maintenance facility on or about January 2020 (Appendix A1, Page 3, Lines 10-39). In contrast, [Interim Deputy Director of Maintenance] and two witnesses provided testimony that building 51 had been identified as an alternate fuel maintenance facility for years prior to 2020 (Appendix A3, Page 8, Lines 15-23; Appendix A4, Page 11, Lines 3-10; Appendix A5, Page 5, Lines 33-38). [Interim Deputy Director of Maintenance] provided signed copies of the 47 MX confined space master entry plans (MEP) for 2016 and 2018, and was only able to provide an unsigned copy of the 2019 MEP. [Acting Director of Maintenance] provided the current MEP dated April 2020. On the 2016, 2018 and 2020 MEPs, building 51 was identified as an approved alternate location. Mr. Cedillo had coordinated on the 2 February 2018 MEP as the Component Maintenance Division Chief (Appendix B6). Laughlin’s Real Property office provided an incomplete Civil Engineer (CE) work request document submitted by [Fuels Section Chief, 47 FTW], 47 MX Fuels Section Chief, requesting *“To change the name of the outside of the building both sides from Corrosion Control to Alternate Fuel Barn”* that was never completed as it was not approved by CE or the Real Property Office (Appendix B7; Appendix A2, Page 5, Lines 17-34; Appendix B22). According to the 3 February 2016 addendum to the 2016 MEP, building 51 had been previously approved as a *“temporary fuel system repair facility”* (Appendix B6).

Also, during the 19th Air Force assessment of the Maintenance Directorate in January 2020, maintenance scheduling had been determined to be ineffective and noted *“fuel barn is biggest concern given it is a bottleneck.”* Several recommended courses of action related to fuel maintenance on the assessment were, *“Pursue fuels work at RAFB⁹ to reduce fuels bottleneck,”* *“Need outdoor fuels spot for minor maintenance,”* and *“Store future damaged aircraft in T-38*

⁷ Staff Assistance Visits are functional visits conducted by pertinent oversight authorities at the request of the inspected organization’s Commander.

⁸ Unit Effectiveness Inspections are independent assessments of wing performance and effectiveness which validates/verifies the wing’s Commander’s Inspection Program.

⁹ Randolph Air Force Base (RAFB).

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Hush House as opposed to alternate fuel barn” (Appendix B10). [former Commander, 47 FTW]’s testimony included that [Acting Director of Maintenance] and [Interim Deputy Director of Maintenance] “were able to come in and find ways to accomplish the mission in accordance with Air Force Instructions.” Additionally, when [former Commander, 47 FTW] was asked whether the decision to use building 51 as a fuel maintenance hangar was made by [Acting Director of Maintenance] and/or [Interim Deputy Director of Maintenance], [former Commander, 47 FTW] replied, “Oh, it had been previously documented, I do not know how far back as the alternate fuel facility. And that existed prior to the arrival of [Acting Director of Maintenance] and [Interim Deputy Director of Maintenance]. The exact time when that was allocated as the alternate fuel barn, I do not know. But the use of it occurred once the new leadership came in and took the appropriate actions, used that facility as it had been designated as an alternate fuel barn and made adjustments to the procedures that the previous leadership failed to do in order to overcome the fuel problems that were stopping maintenance production” (Appendix A5, Page 5, Lines 31-45).

[Technical Advisor/SME], an Air Force Fuels Facilities Engineer from AFCEC, was retained as a technical advisor and SME for issues regarding compliance of buildings 53 and 51 with facility criteria required for buildings designated as a primary or alternate fuels maintenance facilities. Between 6 through 8 October 2020, [Technical Advisor/SME] conducted thorough inspections of buildings 53 and 51, reviewed work requests/order logs for both buildings, reviewed applicable ventilation inspection reports and provided the findings of his assessment via memorandum dated 29 October 2020 (Appendix B1). The findings directly related to the allegations in this investigation are outlined below:

[Technical Advisor/SME]’ assessment findings concluded that the use of UFC 4-211-01 to determine the compliance of building 53 with all requirements for a fuel systems maintenance facility was not appropriate as all facility construction and modification actions occurred prior to its publication.

TO 1-1-3 has always been applicable to fuel systems maintenance facilities and the guidelines for their construction.

Building 53 was designed and constructed as an aircraft fuel system maintenance facility in full compliance with the applicable guidance at the time, AFM 88-15, dated 8 January 1975. This construction was determined to be compliant with the requirements to designate and use the building as a primary/alternate facility per TO 1-1-3.

Building 51 was designed and constructed as a corrosion control facility in full compliance with AFM 88-15, dated 8 January 1975. This facility was not built with the purpose of being a fuel system maintenance facility, thus cannot be designated a primary or alternate facility per TO 1-1-3 without modification. Per TO 1-1-3 it could be designated as a temporary facility if properly certified.

With regard to the life, health and safety features of building 51, [Technical Advisor/SME] included in his assessment that the facility has a cross flow ventilation system, an operational hot water heat system, a wet pipe sprinkler system, and is properly

equipped as a Class 1 Division 1 Electrical Hazardous Area. Additionally, review of work order log identified proper inspection, reporting and repair of systems in building 51.

At some point after construction of building 53, the fire hose reels and CO₂ fire suppression systems were removed leaving the hangar bay without any facility based fire protection system. Portable Halon extinguishers are in place. Review of work order logs indicated an entry for "*Bldg Fire Protection*" that had been started in October 1993 and later cancelled. No further details could be determined to explain if it had been an inspection or item to be repaired. Building 53 was altered to add locker/changing rooms and convert the HVAC system in the hangar bay by BRAC 2005 under project MXDP 073015 to better comply with TO 1-1-3 Paragraph 3.2.3.2. UFC 4-211-01 was not published at the time, so facility criteria was based on guidance provided in TO 1-1-3, ETL 98-9 and ETL 02-11. The TO 1-1-3 paragraph 3.2.3 requirement that buildings would be upgraded to meet new facility requirements outlined in Paragraph 3.2.2 and the most current ETL when major improvements to existing fuel systems repair facilities was not completely followed. Specifically, under UFC 1-200-01 (UFC 3-600-01 at the time), modification to the existing building fire suppression main by adding risers to cover the new area and changing the entire ventilation system in the hangar bay, would have invoked the application of ETL 98-8. Under ETL 98-8, a wet sprinkler system should have been installed and the hazardous zone for Class 1 Division 2 from the top of finished floors to 18 inches height should have been imposed. Without these modifications, the facility was determined to not be in compliance with the requirements of TO 1-1-3.

In 2010, an Air Education and Training Command Asset Management Team recognized the fire suppression system of building 53 did not meet requirements and developed a project to repair the noncompliance issue, and an appropriate Fire Safety Deficiency Code was applied to the facility for the Occupational Safety Council and wing leadership to track and manage. A project which included modifications to the fire suppression system to meet current code requirements has been properly submitted to the Air Force Installation and Mission Support Center (AFIMSC) for funding consideration and execution in the fiscal year 2023-2026 cycle.

The industrial area has remained under the regular observation for proper occupational environmental health tracking by Bioengineering Flight per AFMAN 48-146.

Per TO 1-1-3 [paragraph 1.5.2.1] MXG/CC or equivalent would be the authority for designation of fuel systems maintenance facilities as primary or alternate and the champion for keeping them in proper operating order.

The 47 FTW is operating the primary fuels system maintenance facility in accordance with TO 1-1-3 paragraphs 3.2.1.1 and 3.2.1.1.1 that allows primary/alternate fuel systems repair facilities to be used when systems are inoperative and have a base coordinated action plan to repair the defective system with appropriate Risk Assessment Code (RAC)/Fire Safety Deficiency Code (FSDC) and has a project submitted and interim

operating procedures.

Shortfalls affecting life, health and safety of employees in building 53 have been identified and reviewed on a regular basis during Environmental, Safety, and Occupational Health Council (ESOHC) meetings by the 47 FTW senior leadership.

Management of Property

On or about August 2019, Mr. Cedillo requested inventories to assist with developing a budget for the Component Maintenance Division. He was provided with a “green book” [used for manually tracking supplies] from [Sign Painter] who was responsible for supplies for the Corrosion Control section. Mr. Cedillo did not feel as though what she had provided was adequate and directed [Sign Painter] to provide him with a complete inventory to assist with developing Corrosion Control’s budget (Appendix A1, Page 28, Line 36 through Page 29, Line 32). [Sign Painter] stated *“He just wanted an inventory. So, at first, I did just like a Word document. And he say that he wanted something like more, I guess, professional or more accurate. So, then I just like: Well I have this [Microsoft Excel spreadsheet]. I don’t know if it works for you. So, I showed him what I was using and he said; Yeah, just give me that”* (Appendix A7, Page 9, Lines 24-30; Appendix B8). Upon reviewing the spreadsheet, Mr. Cedillo determined that there were issues with property accountability within the Corrosion Control section. Specifically, Mr. Cedillo’s initial concerns were with what he felt was an excessive amount of respirators, and upon further inquiry he had concerns about the consumption rate of sandpaper. Mr. Cedillo and his Superintendent, Mr. [Squadron Superintendent], along with [Corrosion Control Supervisor], conducted an open locker inspection on or about 9 September 2019¹⁰, and only found a few hazardous materials stored improperly but nothing else other than items needed for employees to do their jobs. Mr. Cedillo stated that he asked [former Director of Maintenance] III, who was the Director of Maintenance, 47th Maintenance Directorate, at the time, *“for help from the OSI [Office of Special Investigations] or law enforcement”* as he felt that he had done as much as he could. Mr. Cedillo’s testimony was that [former Director of Maintenance] had gone to [former Commander, 47 FTW] but that he never received help from anyone (Appendix A1, Page 29, Line 43 through Page 31, Line 22). Mr. Cedillo stated that he believed a respirator should last approximately three to five years per person, sandpaper consumption by Corrosion Control personnel had been more than double what he felt it should be, and Tyvek and ProShield coveralls were interchangeable and usage should be one pair per day, but added that not all employees would require the use of coveralls. Additionally, Mr. Cedillo stated that it was his opinion that the consumption rates indicated theft (Appendix A1, Page 38, Line 18 through Page 41, Line 43).

When [former Commander, 47 FTW] was asked if he had ever been made aware of mismanagement of property or theft, he stated *“Yes, there was an allegation made about theft. Matter of fact, it was Mr. Cedillo who mentioned it to me one day, but he told me he was looking into it and never provided any further insight, you know, information or feedback regarding... regarding his findings.”* [former Commander, 47 FTW] stated the approximate time period *“would have been the fall, maybe the fall of 2019.”* When asked how a director would handle an

¹⁰ This locker inspection was later identified as occurring on or about 9 September 2019.

issue of theft within their organization, [former Commander, 47 FTW] stated *“I suspect they would report it to you know, they would conduct their investigation and they would take action based upon what they found, if they found that there truly was theft, I would suspect they would have asked Security Forces investigations to come in and do a further finding to determine whether it was criminal or they possibly went through the FM [Financial Management] channels and would’ve reported the lost or missing equipment if it was determined that stuff was missing from the inventory. And I am unaware if Mr. Cedillo took the appropriate action and executed his responsibilities”* (Appendix A5, Page 6, Line 39 through Page 7, Line 35).

[Interim Deputy Director of Maintenance]’s testimony included that while he was still the Division Chief for T-38s, Mr. Cedillo and [Squadron Superintendent] informed him that they had conducted an internal investigation and had identified several items that they could not accurately account for. He stated *“... my words to them was, you need to get ahold of OSI, you need to make it, you need to put it out there so they can identify it and look into it because in the long road, in the long run, it’s going to come back to you all because it’s within your, it’s your Division. So other than that, I didn’t see a report”* (Appendix A3, Page 13, Lines 23-33).

When [Acting Director of Maintenance] was asked if he recalled any reports of either theft, misuse or mismanagement of property within Corrosion Control, he stated *“No, not that’s been reported to me. And I would expect the Squadron Commander¹¹ [Juan Cedillo] to report that to me”* (Appendix A2, Page 7, Lines 20-37).

In the CDI summarized testimony of Mr. Cedillo taken on or about May 2020, he stated *“I took over overtime responsibility for [Sign Painter], but did not take any supervisory responsibility from [Corrosion Control Supervisor]. Corrosion seemed to be pilfering supplies, and they were going through way more supplies than they should have been. We were taking two weeks on a weeklong project, and were using 5 rolls of sandpaper to the 2 that should have been needed. I had [Sign Painter] create a list of supplies needed for the year, and also I got them on the TCMax¹² system. There was no inventory and no supply control. [Corrosion Control Supervisor] gave her the job of bench stock. I didn’t want [Corrosion Control Supervisor] to know that she was doing this, so I took over the overtime. I think she was allowing her people to do the pilfering. I wanted [former Director of Maintenance] to have OSI come out after her inventory was complete”* (Appendix B15, Page 3).

In the CDI summarized testimony of Mr. [Squadron Superintendent] dated on or about May 2020, he stated that *“there was no accountability for the painting supplies. The plan to reorganize these supplies was formed by [Corrosion Control Supervisor], [Sign Painter], Mr. Cedillo, and myself.”* He also stated *“I wrote her [[Corrosion Control Supervisor]] an LOA for keeping HAZMAT material and supplies in personal lockers.”* Review of [Corrosion Control Supervisor]’s supervisor folder found that she had been issued a Letter of Counseling (LOC) on or about 11 September 2019 for *“failure to follow tool accountability”* and a Letter of Admonishment (LOA) on or about 18 September 2019 for *“failure to follow HAZMAT*

¹¹ [Acting Director of Maintenance] used the term *“Squadron Commander”* as the Component Maintenance Division Director is the civilian equivalent.

¹² TCMax is the Air Force’s enterprise Tool Accountability System which is also used to maintain control and accountability of consumable and expandable items.

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procedures.” Additionally, the LOA indicated that the admonishment stemmed from the results of the 9 September 2019 spot inspection which had found HAZMAT materials improperly stored in lockers (Appendix B13, Page 2; Appendix B12).

When questioned about the specific information from the 2019 Corrosion Control inventory, [Corrosion Control Supervisor] testified that she had not been aware of the actual totals of the items in question. She stated *“Not to that extent, no. Other than my Division Chief [Mr. Cedillo] brought it to me. But it wasn’t brought to me directly it was taken to him.”* She recalled that the approximate timeframe for this was the Fall of 2019. [Corrosion Control Supervisor] stated that the amount of both full-face and half-mask respirators used seemed to be excessive (Appendix A6, Page 8, Line 35 through Page 9, Line 26). [Corrosion Control Supervisor] explained that the service life of a respirator could range from approximately one year to several years based on its use, and that it would require a *“one-for-one swap”* with [Sign Painter] in order to be issued another mask. [Corrosion Control Supervisor] stated that with their new TCMax accountability system, they are able to better account for this type of equipment and added, *“As far as before, I don’t think that a log was being kept. I think it was just a matter of the only thing we were actually keeping track of was when we would order them because she [[Sign Painter]] kept all that paperwork”* (Appendix A6, Page 3, Line 31 through Page 4, Line 5).

[Corrosion Control Supervisor] stated that the Tyvek and ProShield coveralls were not interchangeable. She explained that the Tyvek were for particulates and cannot be used with liquids, while the ProShield can be used for both liquids and particulates. [Corrosion Control Supervisor] stated that Tyveks are a one-time use which could result in usage of up to approximately six per day, whereas ProShield use would be one per day. [Corrosion Control Supervisor] also added that [Sign Painter] had brought it to her attention that there was a higher amount of the Tyvek coveralls being used and stated *“Well, she understands now that they are going to go through a lot of them.”* [Corrosion Control Supervisor] provided that there were many more variables that could affect the consumption rate of sandpaper use, such as experience of the painter, the type of process (i.e. complete, spot/touch-ups, or overcoat), and weather conditions (Appendix A6, Page 9, Line 32 through Page 19, Line 13).

[Corrosion Control Supervisor] testified that it may have been possible that employees were putting equipment in their lockers for use the next day, however, she conducted a locker inspection with Mr. Cedillo and [Squadron Superintendent]¹³ which proved to be inconclusive. Additionally, [Corrosion Control Supervisor] explained that new processes have been put in place since utilization of the TCMax system began and also added that a total of six individuals had access to the building/room where the items in question were located (Appendix A6, Page 19, Line 15 through Page 23, Line 45).

[Corrosion Control Supervisor] provided that, while utilization of the TCMax system had seemed to be an improvement to prior accountability methods, it took a little bit of time getting everything set up to where it was accounting correctly and added *“We were still... we were still working out the bugs when I left. When I retired.”* She also stated that she had never had to

¹³ This inspection is the 9 September 2019 one mentioned by Mr. Cedillo, from which [Corrosion Control Supervisor] later received both an LOC and LOA.

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conduct a Financial Liability Investigation for Property Loss (FLIPL) in approximately 20 years as a supervisor. [Corrosion Control Supervisor] testified that she “...asked for inventory to be done at least once a month. But... Being I don’t know if they’re actually doing inventories. You know, where they’re actually counting all items there and actually um... putting it against what is in TCMax.” She also provided her opinion that she did not think that the data concerning the respirators had been accurate because respirators should have been a one for one exchange, and added “Um, but logging it in, that I can’t honestly say...” (Appendix A4, Page 3, Line 6 through Page 5, Line 17). When asked if she thought there may have been some issues with accountability within Corrosion Control, [Corrosion Control Supervisor] stated “I think there could have been as far as people not logging in all items that should have been logged in. I know some people didn’t and that, you know, actions were taken to try to correct that. That’s one reason we, once we were able to get TCMax, we got it in there. Um, my upper management helped with that a lot and I was very thankful for that. Um, we just... somethings you learn as you go. I’d never had an issue in the past, why just that one year was an issue, I have no idea” (Appendix 4, Page 10, Lines 13-23).

[Laughlin Local Purchase Store employee], a Laughlin Local Purchase store employee, provided Fiscal Year 2019 Corrosion Control purchase order data which indicated that the totals by purchase order for each of the items in question were: Coveralls (Tyvek and ProShield) – 1,875; respirators 63 total; and sandpaper (120, 150, 180 and 320 grit) 375 rolls (Appendix B19).

Review of the 2019 spreadsheet that was used by Mr. Cedillo to initiate an inquiry into the perceived property accountability issues indicated their estimated consumption amounts for the specific items in question were: Coveralls (Tyvek and ProShield) – approximately 4,600; respirators 193 total (130 half-mask & 63 full face); and sandpaper (120, 150, and 320 grit) 105 rolls (Appendix B8). [Sign Painter] testified that an inventory had never been accomplished prior to the one she had accomplished in August 2019, and stated “Like right now. I only like keep the one for TCMax and I do like monthly. Like I go again over the inventory like just to make sure everything is matching the program.” [Sign Painter] explained that the methodology that she had used to create the 2019 spreadsheet was to input all Government Purchase Card data per item on the “IN” column of the spreadsheet, and stated the “STOCK” column was “What I had in that moment,” but added that the inventory took between three and four months. [Sign Painter] stated that prior to TCMax, tracking of consumable items was not being accomplished and only certain items could be issued out as a one for one exchange. When asked if the information on the inventory was for the 2019 fiscal year, [Sign Painter] replied “... a little bit but yeah, it was the... Yeah, because the stock is more than what I receive but I explained that, for example, sometimes it’s to where like this fiscal... at the end of the fiscal year, at the end, like the last two weeks or something they got or the last day they’ve got a lot of money and they ask me: Hey, we have this. What do you need like me to order you? So, sometimes they order me more than what I need so they can like spend the last minute money that they receive” (Appendix A7, Page 4, Line 6 through Page 8, Line 26). Mr. Cedillo clarified in his testimony that the supplies were purchased via signed purchase order through the Local Purchase store, with the purchase orders signed by either [Corrosion Control Supervisor] or himself. Mr. Cedillo also stated that both he and [Laughlin Local Purchase Store Employee], who works at the LP store, maintained all records of purchases (Appendix A1, Page 36 Line 4 through Page 37, Line 1). Additionally, [Sign Painter] provided TCMax reports containing data from when they began

using the system in early 2020 through 26 January 2021. She also explained that there had initially been mistakes with how she had input data into TCMax that they had to try to later correct after receiving training on the TCMax system, and also provided clarifying information regarding the TCMax reports, including that no respirators had been ordered in approximately one year (Appendix B8a).

On or about 10 September 2020, Mr. Cedillo provided information to [Vice Commander, 47 FTW], Vice Commander, 47 FTW, concerning issues within Corrosion Control. He provided information via email stating that he had lost confidence in [Corrosion Control Supervisor]'s ability to lead and manage Corrosion Control and included as reasons, "*[Corrosion Control Supervisor]'s bench stock did not have a supply inventory nor a tool accountability system in place for the last ten years as required by AFI 21-101*" and "*MXM corrosion section has engaged in the theft and misuse of government property.*" Mr. Cedillo also provided the following information regarding Corrosion Control in a memorandum to [Vice Commander, 47 FTW], "... *[Sign Painter] was conducting an inventory supply audit on the Corrosion Branch. Although it was the first time she was doing such, it was not outside of her position description (PD). [Sign Painter] is the only Bench stock/Sign painter assigned to the Corrosion Branch for the past five years. [Sign Painter] was not properly trained on her bench stock duty requirements of her PD. She did know how to maintain or how to develop a supply inventory acceptable for the US Air-Force. Her Supervisor has failed to maintain an accurate supply inventory and tool accountability for the past 20 years which facilitated stealing for some of corrosion branch employees - about ten thousand dollars of supply and equipment per year. I made changes in the corrosion branch bench stock (e.g. installing a new TC-Max inventory system, buying new printing equipment and having the welding shop make proper [shelves] for bench stock). After [Sign Painter] finished the Corrosion Bench Stock audit, [former Director of Maintenance] and I asked [former Commander, 47 FTW] for help from the OSI or the Security forces to help investigate the theft of government resources to no avail*" (Appendix B16; Appendix B17).

Corrosion Control usage data for consumable supplies and equipment was obtained from the 12th Maintenance Group at Joint Base San Antonio Randolph (JBSA Randolph), Texas for comparison to the 47 MX Corrosion Control usage data, since Randolph and Laughlin have very similar flying missions (Appendix B9). Additional data comparisons from other maintenance organizations were considered by using usage data for Vance AFB, Oklahoma and Columbus AFB, Mississippi, as both also have similar flying missions as Laughlin. However, close examination of the inventory data provided by the complainant indicated multiple accountability errors.¹⁴ Additionally, as subsequent testimony and supporting information identified other inaccuracies of the inventory, the historical data related to the 47 MX Corrosion Control items in question could not be effectively utilized to determine accurate consumption rates. Therefore, efforts to obtain additional comparative data from similar organizations ceased.

¹⁴ Multiple line items identified by the inventory indicated negative consumption rates, including one of the items that the complainant alleged were either stolen or misused (Appendix B8).

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ANALYSIS

Facilities Compliance

The OSC referral letter alleged that both the primary and alternate fuel system maintenance hangars at Laughlin AFB did not adhere to design requirements specified in the Department of Defense's Unified Facilities Criteria (UFC) 4-211-01 Chapter 5 and Air Force Standard Design documents. This UFC supersedes UFC 4.211-01N, *Aircraft Maintenance Hangars: Type I, Type II and Type III* dated 25 October 2004 with Change 3 dated 16 December 2009, NAVFAC Interim Technical Guidance (ITG 2010-01) - *Maintenance Hangar Design and Planning Guidance for F35B or C*, and Engineering Technical Letter (ETL) 02-15: *Fire Protection Engineering Criteria New Aircraft Facilities*, 3 December 2002. This UFC provides criteria for planning and design of Aircraft Maintenance Hangars for the aircraft of the combined DoD United States Armed Forces.

Evidence showed that building 53, which served as Laughlin's Primary Fuels Maintenance Facility, was designed and constructed as an aircraft fuel system maintenance facility in full compliance with the applicable guidance at the time, AFM 88-15 dated 8 January 1975. This construction is compliant with the requirements to be a primary/alternate facilities per TO 1-1-3. Paragraph 3.2.1.1 and 3.2.1.1.1.

Evidence showed that building 51 was designed and constructed as a corrosion control facility in full compliance with AFM 88-15 dated 8 January 1975. This facility was not built with the purpose of being a fuel system maintenance facility, thus cannot be designated a primary or alternate facility per TO 1-1-3 without modification (Appendix B1, page 9). Per TO 1-1-3, paragraph 1.5.2.1, the 47 FTW Maintenance Director would be the authority for designation of fuel systems maintenance facilities as primary or alternate (Appendix B1). In this case, building 51 was designated an "alternate" location on the 47 MX MEPs from 2018 through 2020 and endorsed by the 47 FTW Maintenance Directors. The earliest 47 MX MEP available for review contained an addendum dated 3 February 2016 which indicated that building 51 had been previously approved as a temporary fuel system repair facility. However, that certification was pulled because building 51 was being used for explosive storage at the time.

Evidence showed, with regard to building 53, that utilizing UFC 4-211-01 to determine whether or not the facility was compliant with all requirements for a fuel systems maintenance facility was not appropriate as all facility construction and modification actions occurred prior to its publication. Instead, TO 1-1-3 should have been used as it has always been applicable to fuel systems repair facilities and area requirements. Per TO 1-1-3, paragraph 1.5.2.1, the 47 MX Maintenance Director is the authority for designation of Fuel Systems Maintenance facilities as primary or alternate and the champion for keeping those facilities in proper operating order (Appendix B1).

Although evidence did indicate there had been issues identified concerning building 53's full compliance with TO 1-1-3, an appropriate Fire Safety Deficiency Code had been applied to the facility for the Occupational Safety Council and wing leadership to track and manage and a base project which included modifications to repair the fire suppression system to meet current

code requirements had been properly submitted to AFIMSC for consideration for funding and execution in the fiscal year 2023-2026 cycle. The industrial area had been under the regular observation for proper occupational environmental health tracking by the Bioengineering Flight per AFMAN 48-146. The 47 FTW has been operating the Fuels System Maintenance facility IAW TO 1-1-3 paragraphs 3.2.1.1 and 3.2.1.1.1 that allows primary/alternate fuel systems repair facilities to be used when systems have been determined to be inoperative and have a base coordinated action plan to repair the defective system with appropriate Risk Assessment Code (RAC)/Fire Safety Deficiency Code (FSDC) and has a project submitted along with interim operating procedures as required. Evidence determined shortfalls affecting life, health and safety of employees in of building 53 were identified and reviewed on a regular basis during ESOHC meetings by the 47 FTW senior leadership (Appendix B1).

In summary, the evidence does not support a violation of any law, rule or regulation as it pertains to building 53, the primary fuel system maintenance hangar at Laughlin AFB. However, evidence showed that building 51, although it was not specifically built, or modified for use as an aircraft fuel systems repair hangar, was designated as an alternate repair facility on the 2018 through 2020 MEPs in violation of TO 1-1-3. Therefore, the findings for the allegations concerning buildings 53 and 51 at Laughlin AFB are as indicated below:

The allegation that building 53, the primary fuel cell maintenance hangar at Laughlin AFB, TX is not in compliance with health and safety systems and protocols as required by the Department of Defense's Unified Facilities Criteria 4-211-01, dated May 18, 2020, as well as other applicable issuances was determined to be **NOT SUBSTANTIATED**.

AND

The allegation that building 51, the alternate fuel cell maintenance hangar at Laughlin AFB, TX is not in compliance with health and safety systems and protocols as required by the Department of Defense's Unified Facilities Criteria 4-211-01, dated May 18, 2020, as well as other applicable issuances was determined to be **SUBSTANTIATED**.

Abuse of Authority

AFI 51-1102 defines abuse of authority as "*an arbitrary or capricious exercise of power by a federal official or employee*" and does not contain a minimum standard or threshold. To qualify as arbitrary and capricious, the exercise of power must have either adversely affected the rights of any person or resulted in personal gain or advantage to [Acting Director of Maintenance], [Interim Deputy Director of Maintenance], or to preferred other persons.

The evidence does not support a finding of Abuse of Authority by [Interim Deputy Director of Maintenance] for any of his actions related to Laughlin's fuel maintenance facilities. However, [Acting Director of Maintenance]'s designation of building 51 as an alternate fuels maintenance facility on the 2020 MEP was determined to be in violation of TO 1-1-3. The evidence revealed that [Interim Deputy Director of Maintenance] did not violate any law, rule or regulation regarding his actions related to the 47 FTW/MX fuel maintenance facilities. Evidence showed that [Acting Director of Maintenance] did not act within the authority granted under

applicable regulations, law or policy in approving the 2020 MEP which designated building 51 as an alternate repair facility for fuels maintenance. While the AFCEC SME's determination regarding building 51 included that "*Per TO 1-1-3 it could be a temporary facility,*" TO 1-1-3, paragraph 3.2.5, states certification as a temporary repair facility "*shall be identified on an Addendum to the MEP as temporary and may be used for 90 days from the date of certification. They shall be recertified 90 days thereafter...*" (Appendix B3). Documentary evidence indicated that building 51 had been previously approved as a temporary fuels maintenance facility but had lost that certification 4 years prior (Appendix B6). Evidence showed that [Acting Director of Maintenance]'s decision to designate building 51 as an alternate fuels maintenance facility was done arbitrarily, in violation of TO 1-1-3. Additionally, the designation and utilization of building 51 as an alternate fuels maintenance facility, either intentionally or unintentionally, resulted in personal gain or advantage to [Acting Director of Maintenance] as the resolution of maintenance issues that had been identified during the 19 AF January 2020 assessment reflected favorably on him as indicated by the 47 FTW/CC's testimony (Appendix A5, page 5, Lines 31-45).

In summary, the evidence showed that neither [Acting Director of Maintenance] nor [Interim Deputy Director of Maintenance] Abused their Authority as it pertains to building 53, the primary fuel system maintenance hangar at Laughlin AFB. However, evidence in the record related to the designation and use of building 51 as the alternate fuel system maintenance hangar at Laughlin AFB determined [Acting Director of Maintenance]'s actions constituted an Abuse of Authority while [Interim Deputy Director of Maintenance]'s did not. Therefore, the findings for the Abuse of Authority allegations concerning buildings 53 and 51 at Laughlin AFB are as indicated below:

Regarding building 53, the primary fuel cell maintenance hangar at Laughlin AFB, TX:

The allegation that the action(s) and/or failure(s) to act by [Acting Director of Maintenance], Acting Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel* was determined to be **NOT SUBSTANTIATED**.

AND

The allegation that the action(s) and/or failure(s) to act by [Interim Deputy Director of Maintenance], Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel* was determined to be **NOT SUBSTANTIATED**.

Regarding building 51, the alternate fuel cell maintenance hangar at Laughlin AFB, TX:

The allegation that the action(s) and/or failure(s) to act by [Acting Director of Maintenance], Acting Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel* was determined to be **SUBSTANTIATED**.

AND

The allegation that the action(s) and/or failure(s) to act by [Interim Deputy Director of Maintenance], Interim Deputy Director of Maintenance, 47th Maintenance Directorate, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel* was determined to be **NOT SUBSTANTIATED**.

Substantial and specific danger to public health or public safety

AFI 51-1102 states that a disclosure concerning a “*danger to public health or safety*” must be substantial and specific. A variety of factors may determine when a disclosed danger is sufficiently substantial and specific. Two of these are (1) the likelihood of harm resulting from the danger and (2) when the alleged harm may occur. If the disclosed danger could only result in harm under speculative or improbable condition, or is not likely to occur in the immediate or near future but rather manifest only in the distant future, it would not qualify. The nature of the harm, that is the potential consequences, affects the substantiality of the danger.

The evidence does not support a substantial and specific danger to public health or safety regarding the actions pertaining to the use of the 47 FTW fuel maintenance facilities by [Acting Director of Maintenance] and or [Interim Deputy Director of Maintenance]. Although [Acting Director of Maintenance] did not have the authority to designate building 51 as an alternate maintenance repair facility per TO 1-1-3, the AFCEC SME determined that it could be designated as a temporary facility if properly certified IAW TO 1-1-3. He also identified the health and safety features of building 51 and reviewed work order logs identifying proper inspection, reporting and repair of the building’s systems. Additionally, he found that any shortfalls affecting life, health and safety of employees in building 53 are identified and reviewed on a regular basis during ESOHC meetings by the 47 FTW senior leadership (Appendix B1). As such, the likelihood of harm resulting from the hazards of fuel maintenance operations is not out of tolerance with the description of acceptable risk indicated in TO 1-1-3, paragraph 2.2.2. Any perceived danger by Mr. Cedillo concerning health and safety related to the use of the 47 FTW fuel maintenance facilities could only result in harm under speculative conditions and would not likely occur in the immediate or near future.

Based on the above, the evidence in the record does not support a finding that any of the actions of [Acting Director of Maintenance] or [Interim Deputy Director of Maintenance] constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102. Therefore, the allegations that the action(s) and/or failure(s) to act by [Acting Director of Maintenance], 47th Flying Training Wing Acting Director of Maintenance, and/or [Interim Deputy Director of Maintenance], 47th Flying Training Wing Interim Deputy Director of Maintenance, constituted a substantial or specific danger to public health or safety in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*, was determined to be **NOT SUBSTANTIATED**.

Management of Property

The OSC referral letter alleged that employees in the Corrosion Control Section may have engaged in theft and misuse of government property. Mr. Cedillo's concerns regarding possible misuse and/or poor accountability of government property within his Corrosion Control Section stemmed from an inventory he directed on or about August 2019. The individual who had conducted the inventory was [Sign Painter], whose duties included supply activities for Corrosion Control Section. Consumable items that [Sign Painter] had ordered through Laughlin's Local Purchase store included respirators, coveralls, and sandpaper. She was also responsible for accountability of these items as well as issuing them to Corrosion Control employees.

As indicated in Mr. Cedillo's memorandum to [Vice Commander, 47 FTW], he alleged that [Sign Painter] had never conducted an inventory before and stated that she had not been properly trained on her bench stock duty requirements by her supervisor, [Corrosion Control Supervisor] (Appendix B16; Appendix B17). Additionally, Mr. Cedillo had directed [Sign Painter] to conduct the inventory and assumed overtime approval so that her supervisor, [Corrosion Control Supervisor], would not be aware (Appendix B15). [Sign Painter] testified that she had never conducted an inventory, and initially provided Mr. Cedillo with a "*green book*" which she had used as a log book to track supplies, followed by a Microsoft Word document which attempted to summarize the data contained in the log book, and finally an Excel spreadsheet with summarized inventory data. [Sign Painter] explained that she had added all GPC orders per item to identify items received over approximately one year and input the total into the "*IN*" column of the spreadsheet, and in the "*STOCK*" column she had added the per item totals of a physical inventory that had taken approximately three to four months to complete (Appendix A7, Page 4, Line 6 through Page 8, Line 26). Mr. Cedillo used the difference between the "*IN*" and "*STOCK*" columns of the spreadsheet in order to determine per item consumption amounts for the year. Although review of the inventory spreadsheet indicated that this methodology for determining consumption amounts was not ideal as it resulted in numerous items showing negative consumption, Mr. Cedillo decided to conduct an informal inquiry as he perceived the findings of the inventory indicated theft which he felt had been facilitated by [Corrosion Control Supervisor]'s failure to maintain accurate supply inventory and tool accountability for Corrosion Control (Appendix A1, Page 29, Line 43 through Page 30, Line 45).

Mr. Cedillo, along with his Superintendent, [Squadron Superintendent], and [Corrosion Control Supervisor] conducted an open locker inspection on or about 9 September 2019, in which only a few HAZMAT items and operating/bench stock items were found to be improperly stored (Appendix A1, Page 31, Line 10-15). On 11 September 2019, [Corrosion Control Supervisor] received a letter of counseling from [Squadron Superintendent] for failure to follow tool accountability processes by improperly storing operating/bench stock items and government owned tools. On 18 September 2019, [Corrosion Control Supervisor] received a letter of admonishment from [Squadron Superintendent] for failure to follow HAZMAT procedures for improper storage of hazardous materials found during the 9 September 2019 locker inspection (Appendix B12, Pages 2-3).

Mr. Cedillo, [Squadron Superintendent], [Corrosion Control Supervisor], and [Sign Painter] worked together to develop a plan to improve property accountability for Corrosion Control (Appendix B13, Page 2). This plan included adding improved shelving for bench stock, purchasing printing equipment, providing a computer with TCMax inventory software installed along with user training for the TCMax system. Additionally, as Mr. Cedillo had been unable to identify any evidence to prove his suspicion of theft and felt that he had exhausted his options, he separately discussed these issues with [former Director of Maintenance], [Squadron Superintendent], and [former Commander, 47 FTW] in hopes that they would assist him with getting someone from either OSI or law enforcement to look into his allegations of theft. [former Commander, 47 FTW] testified that Mr. Cedillo had mentioned that he was looking into allegations of theft but never provided information with regard to his findings, and added that he was unaware if Mr. Cedillo took the appropriate action and executed his responsibilities (Appendix A5, Page 6, Line 39 through Page 7, Line 35).

AFI 23-111 prescribes basic guidance and responsibilities for managing government property under Air Force control through authorizing and directing commanders to manage government property under their command. In accordance with AFI 23-111, paragraph 7.10, the responsibilities of property custodians/managers includes recording and accounting for Government property that does not require a formal accountable system, such as the one used to record Government Purchase Card (GPC) transactions that do not meet the threshold for accountable property system of record. In terms of property not accounted for, AFI 23-111, paragraph 7.6 states "Initiate financial liability investigation of property loss, for government property that is lost, damaged, destroyed or stolen" and references DoD 7000.14-R, Vol 12, Ch 7, *Financial Liability for Government Property Lost, Damaged, Destroyed or Stolen*. In accordance with DoD 7000.14-R, paragraph 070204 explains that upon discovery of loss, damage, destruction, or theft of government-owned property of any value, the first line supervisor shall conduct an inquiry to determine if the situation warrants a more formal inquiry, such as an investigation. It goes on to explain the dollar value threshold with which an investigation shall be conducted, but adds that investigations may also be conducted when circumstances indicate thefts of small amounts of property have occurred frequently enough to suggest a pattern or wrongdoing. Although Mr. Cedillo suspected problems with property management, he did not inform [Corrosion Control Supervisor] of his inquiry activities into what he perceived as a loss of government-owned property.

[Corrosion Control Supervisor] testified that Mr. Cedillo never informed her of the totals of the items in question, only that there were identified issues concerning accountability. She provided information identifying the inaccuracy of Mr. Cedillo's belief that Tyvex and ProShield coveralls were interchangeable and also provided additional information concerning the many variables that could affect the average consumption of sandpaper. [Corrosion Control Supervisor] stated that the consumption amounts for both types of respirators, as indicated on the 2019 inventory spreadsheet, seemed excessive, however, she questioned the accuracy of the data. Her testimony included that she believed some individuals were not "*logging in all items that should have been logged in*" and testified that she had previously taken corrective action against individuals that did not log items in appropriately (Appendix 4, Page 10, Lines 13-23). [Corrosion Control Supervisor] also stated that she had asked for monthly inventories but was unsure if they were being done correctly (Appendix A4, Page 3, Line 6 through Page 5, Line 17).

Additionally, she stated that the addition of TCMax had seemed to improve accountability, but that there were still a few issues with correct use of the accountability system when she retired in December 2020 (Appendix A4, Page 3, Lines 6-32). [Sign Painter]'s testimony also indicated that there were issues regarding proper use of the TCMax system (Appendix B8a, Page 4).

An attempt was made to obtain corrosion control consumable equipment data to determine rates of use of consumable supplies and equipment from similar organizations, however, efforts were ceased after identifying gross inaccuracies with the data from the 47 MX Corrosion Control's inventory. Data obtained from the Laughlin Local Purchase Store (Appendix B19) indicated significant disparities in each of the totals listed on the "IN" column of the August 2019 Corrosion Control inventory conducted by [Sign Painter]. Specifically the total number of coveralls and respirators on the inventory were over 2,700 and 130 higher respectively than the fiscal year 2019 Corrosion Control purchase order data provided by the Laughlin local purchase store, while sandpaper totals were lower by approximately 270 on the inventory. Without accurate information, we were unable to determine usage rates for the various types of equipment in question.

Evidence indicated the 47 MX Corrosion Control Section exercised poor supply accountability practices. Mr. Cedillo, as the Director of Component Maintenance took steps to conduct an inquiry into accountability issues that he suspected may have been occurring within Corrosion Control, however his findings proved to be inconclusive. [Corrosion Control Supervisor], as the Corrosion Control Supervisor, received progressive discipline for the issues detected by Mr. Cedillo's inquiry, and steps were taken in early 2020 to correct accountability issues and mitigate the risk of reoccurrence.

In summary, the available evidence was insufficient to support conclusions with reasonable certainty about whether the alleged actions took place. The lack of available data inhibited an accurate determination of consumption rates of the consumable supplies and equipment, such that we could make a comparison with similarly situated organizations. We note that we did not find indications of theft, but rather, a failure to maintain a property system of record. Therefore the allegation that between on or about 1 October 2018 and on or about 30 September 2019, members of the corrosion control section of the 47th Maintenance Directorate at Laughlin AFB, TX misused government property by consuming respirators, coveralls, and sandpaper at a rate significantly exceeding the consumption rates of similar organizations in violation of AFI 23-111, *Management of Government Property in Possession of the Air Force*, paragraph 7, was determined to be **NOT SUBSTANTIATED**.

Gross Waste of Funds

AFI 51-1102 defines gross waste of funds as "a more than debatable expenditure that is significantly out of proportion to the benefit reasonably expected to accrue to the government." The evidence was inconclusive in determining whether there were more than debatable expenditures significantly out of proportion to the benefit reasonably expected to accrue to the government. The supplies for the Corrosion Control Section were approved and signed by both [Corrosion Control Supervisor] and Mr. Cedillo (Appendix A1, Page 36 Line 4 through Page 37, Line 1) as the purchase order items of respirators, coveralls, and sandpaper are necessary and

legitimate expenses for the work performed within the Corrosion Control Section. Evidence determined there were issues indicating poor supply accountability practices within the Corrosion Control Section, and [Corrosion Control Supervisor] was counseled in writing for accountability violations identified during the informal inquiry conducted by Mr. Cedillo on or about early September 2019 (Appendix B12, Pages 2-3). Additionally, corrective measures were implemented in early 2020 to improve accountability of the Corrosion Control Section's consumable supplies and equipment (Appendix B17, Page 1, Appendix A1, Page 33, Line 11 through Page 34 Line 34). Due to the significant amount of time that had passed since the August 2019 Corrosion Control section inventory, along with conflicting data from the Laughlin Local base supply store, the accuracy of the inventory and the Corrosion Control's expenditures for the supplies in question could not be verified. As such, there was insufficient evidence to conclude whether the supply purchases made by Corrosion Control staff were in excess.

Based on the above, the evidence does not support a finding of gross waste of funds on the part of [Corrosion Control Supervisor]. Therefore, the allegation that the actions and/or failure(s) to act by [Corrosion Control Supervisor], Corrosion Control Supervisor, 47th Maintenance Directorate, constituted a gross waste of funds in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*, was determined to be **NOT SUBSTANTIATED**.

CONCLUSION

Upon review of the evidence and testimony obtained during the investigation, and based upon a preponderance of the evidence, the Air Force findings are as indicated above. The investigation did not reveal a criminal violation. Therefore, referral to the Attorney General, pursuant to 5 U.S.C. §§ 1213(c) and (d) is not appropriate. This Report is submitted in satisfaction of my responsibilities under 5 U.S.C. §§ 1213(c) and (d).

[Investigating Officer]
Investigating Officer
Date: 23 June 2021

Addendum to
OSC File No. DI-20-000874
Report of Investigation

BACKGROUND

On 23 August 2021, AETC/IG, as the investigation Appointing Authority, approved the Report of Investigation for Office of Special Counsel (OSC) File Number DI-20-000874. Subsequent to that approval, AETC/IG transferred the case to DAF/IGQ for follow-on processing, review, and approval IAW AFI 51-1102, *Cooperation with the Office of Special Counsel*.

On 26 October 2021, the Director, Department of the Air Force Inspector General Complaints Resolution (DAF/IGQ), requested that AETC/IG review the evidence and analysis associated with the conclusions and findings for Allegation 2b from the Report of Investigation for Office of Special Counsel (OSC) File Number DI-20-000874.

Following DAF/IGQ's request, DAF/IGQ returned the case to AETC/IG. AETC/IG reviewed the evidence and analysis associated with the conclusions and findings for Allegation 2b and subsequently requested that the Investigating Officer (IO) also review the evidence and analysis associated with the conclusions and findings, and, as appropriate to the review, reconsider his conclusions and findings for Allegation 2b.

Following his review and reconsideration for the findings for Allegation 2b, the IO informed AETC/IG that the finding Allegation 2b should remain as SUBSTANTIATED as his original logic and argument are still valid.

After careful review of the evidence and analysis associated with the conclusions and finding for Allegation 2b, AETC/IG disagrees with IO's application of the Abuse of Authority standard from AFI 51-1102, *Cooperation with the Office of Special Counsel*, and offers the following revised analysis regarding abuse of authority.

SUMMARY OF EVIDENCE – DOCUMENTED ACTIONS

The 3 February 2016 "Addendum to Fuel System Repair Confined Space Master Entry Plan (MEP)" requested that the 47 FTW/MX Director approve Building 33 "as a temporary fuel system repair facility IAW TO 1-1-3" and specifically references the division's inability to use Building 53 due to inaccessibility caused by "drainage construction being performed on apron in front of Building 53" (Appendix B6, Page 25). Further, this addendum states, Building 53 is "the primary, and only, fuel system repair facility. The previous temporary fuel system repair facility, building 51, has now being used for explosive storage and is not suitable for fuel systems maintenance. Building 33 will be recertified every 90 days IAW TO 1-1-3, paragraph, 3.2.5" (Appendix B6, Page 25).¹ ²The 47 FTW Deputy Director of

¹ It is notable that the [former Director of Maintenance] digitally signed the addendum on 4 February 2016. Based on [Interim Deputy Director of Maintenance]'s testimony regarding the impacts of cold weather on T-1 fuel tanks (See Appendix A3, page 11, lines 16-18), Laughlin is likely to have had a need, or projected need to have a fuel system maintenance facility properly designated during the temporary closure of Building 53.

² Laughlin's 2016 "Confined Space Master Entry Plan (MEP)," dated 10-February 2016 was digitally signed by the Component Maintenance Division Chief on 29 February 2016. It was digitally signed by the Director of Maintenance (with no specific indication of approval or disapproval) on 30 March

Maintenance digitally signed the addendum on 4 February 2016; however the document does not specifically annotate approval or disapproval (Appendix B6, Page 25).³

The 30 January 2020 “Assessment of the Laughlin Air Force Base Maintenance Directorate” submitted by 19 AF/LG to the 47 FTW/CC includes Recommended Improvement Areas (RIAs) for the “MXGT-1 Phase docs” and the “Fuels MXG” work center which includes the comment “Store future damaged aircraft in T-38 Hush House as opposed to alternate fuel barn” (Appendix B10, page 43).⁴⁵ Additionally, the report includes comments describing a “bottleneck” for fuels maintenance, suggesting to “Pursue fuels work at RAFB to reduce fuels bottleneck where applicable i.e. T-38 FCLs/other scheduled maintenance/inspection” (Appendix B10, Page 21). The report also contains a recommendation for a follow-on fuels SAV and comments that the “fuel barn is biggest concern given it is a bottleneck and they were one of the complaints.” (Appendix B10, page 43).

On 30 April 2020, [Acting Director of Maintenance] digitally signed the fourth indorsement to a memo with the subject, “Confined Space Master Entry Plan” documenting approval of the memo (Appendix B6, Pages 1-8). This memo contained the statement “This permit is an authorization and approval for building 53 as the primary location and building 33 and 51 as the alternates incase [sic] building 53 cannot be used and or during peak workloads” (Appendix B6, Page 1).

SUMMARY OF EVIDENCE – APPLICABLE TESTIMONY

During testimony, the [former Commander, 47th FTW] referred to “an alternate fuel barn facility adjacent to the current facility and some changes that are in compliance with all Air Force Instructions in order to overcome the fuel barn shortfalls” (Appendix A5, Page 5,

2016. The 2016 Confined Space MEP does not mention Building 51. However, the first paragraph of the memo does include “building 33 as the alternate incase [sic] building 53 cannot be used.” It is notable that an addendum to the Confined Space MEP was completed just prior to the 2016 Confined Space MEP. IAW TO 1-1-3, because the addendum was signed on 4 February 2016, the addendum’s applicability is to the 2015 Confined Space Master Entry Plan (MEP) which was not made available to the IO. The 2016 Confined Space MEP should have referenced the previously approved addendum; an alternative would have been to reaccomplish the addendum with the 2016 Confined Space MEP approval to reset the required recertification period for Building 33 as a temporary fuel system repair facility.

³ It is also notable that the Deputy Director Maintenance digitally signed the addendum indicating approval prior to the Ground Safety Manager and the Flight Chief for Fire Emergency Services digitally signed the addendum.

⁴ The Assessment Report does not reference TO 1-1-3 nor does it include any language which would remind 47 FTW/MX personnel to correctly designate Hangar 51 for fuel system repair IAW TO 1-1-3.

⁵ It is notable that [Acting Director of Maintenance] was the senior ranking 19 AF member of the assessment at Laughlin. Additionally, the 19 AF Assessment happened at the same time that [Interim Deputy Director of Maintenance] indicated stress on 47 FTW/MX to return an increased number of T-1 aircraft awaiting maintenance (specifically fuels system maintenance) to mission capable status.

lines 8-10). Later, [former Commander, 47th FTW] stated that the decision to use the backup facility “had been previously documented.... And that existed prior to the arrival of [Acting Director of Maintenance] ...” (Appendix A5, Page 5, lines 36-38). [former Commander, 47th FTW] further elaborates “But the use of it occurred once the new leadership came in and took the appropriate actions, used that facility as it had been designated as an alternate fuel barn and made adjustments to the procedures that the previous leadership failed to do in order to overcome the fuel problems that were stopping maintenance production” (Appendix A5, Page 5, lines 42-45).

During his interview with the [Interim Deputy Director of Maintenance], the IO inquired about changing the name on the sign for Building 51. While [Interim Deputy Director of Maintenance] did not recall a request to change the name, he did discuss Building 33 being “a new whole paint...building” (Appendix A3, Page 8, lines 44-45). He elaborates “that building [Building 51] became obsolete and then it was just for whatever purpose...when corrosion no longer used it as a paint barn” (Appendix A3, page 9, lines 2-5). Additionally, [Interim Deputy Director of Maintenance]’s testimony provides a recent history of utilization for Building 51, including Building 51 being used alternate facility for “egress storage area for seats”⁶ because of concerns about the amount of explosives “at one given building” (Appendix A3, Page 8, lines 23-27). He continues “They used that area as an alternate egress storage area for seats. So it’s been used, like I said, they even used it for crash recovery. So it’s been used for different um... different issues, ah, you know, for... from that division itself because that division, component division control egress, fuels, hydraulics, all the back shops we would call” (Appendix A3, Page 8, Lines 31-34). In his testimony, [Interim Deputy Director of Maintenance] described the contemporaneous demand on fuel systems maintenance by recalling impacts to T-1 production in early 2020, stating:

“And I think at the time sir, and I’m know it could be plus or minus a couple of aircraft, but I think the T-1s was like eleven aircraft behind waiting to go into the fuel barn. So eleven and when you can only, and at that time, they were only flying something like I don’t know eight, between eight and ten or eleven aircraft and so it kind of made it very...it made it very hard for T-1s to you know, get ahead and flying and producing pilots to fly and they had to change their syllabus, they had to cut their sorties because they just weren’t going to graduate because of the amount of aircraft that were broke at the time and they couldn’t get them together.” (Appendix A3, Page 5, lines 32-39)

During [Acting Director of Maintenance]’s testimony, he repeatedly referred to Building 51 as “alternate fuelpots” or the “alternate fuel barn.” He stated “I have no idea” when the IO

⁶ The “Egress Shop” in the Component Maintenance Division is responsible for maintaining aircraft ejection seats. When not installed in the aircraft, seats require adequate storage. [Interim Deputy Director of Maintenance]’s testimony indicates a limit on the amount of explosives that can be stored at any one location. Additionally, he described a prior surge in T-6 ejection seat maintenance associated with a fleet-wide grounding driving ejection seat inspections. As a result, it is very likely the primary egress facility was inadequate for the amount of seats and associated explosive cartridges that required storage. See Appendix A3, page 8, lines 23-27.

asked him how many “fuel maintenance facilities and/or areas...could be primary, alternate, open areas, and also temporary...” (Appendix A2, Page 4, lines 10-13). Additionally, when asked about “buildings that were...earmarked as alternates,” [Acting Director of Maintenance] stated “I don’t know where they all are currently” (Appendix A2, Page 4, lines 22-26). [Acting Director of Maintenance] testified about the efficiencies gained by performing fuel systems repair in Building 51, describing it as “a lot easier” and “the more efficient you can become production wise” (Appendix A2, Page 5, line 3-6). [Acting Director of Maintenance] also provides his synopsis for how alternate fuel systems repair facilities are designated, stating “So all you need to make a spot as an alternate fuel barn, is throughout the paperwork, through the appropriate chain and have it signed” (Appendix A2, Page 5, lines 31-32). He makes no mention of Technical Order requirements at any point during his testimony. And while he is responding to the IO’s question regarding the name of the building not being changed via the facility work order process, [Acting Director of Maintenance]’s statement corroborates the testimony of other witnesses that Building 51 was no longer used as a corrosion control facility. However, his testimony does not indicate an awareness of additional prior usage of Building 51 for other Component Maintenance Division actions, including the storage of T-6 ejection seats by the Egress Shop. Further, [Acting Director of Maintenance] states that that the division would use the “alternate fuel barn spot” for repair that is not “open fuel cell work” but needs to be “inside, out of the weather so it can cure” (Appendix A2, Page 5, lines 38-40).⁷ In his testimony, [Acting Director of Maintenance] also highly touts the recommendations from [SAV Personnel] in a Staff Assistance Visit (SAV) report (Appendix A2, Page 3, lines 28-30).⁸ Finally, towards the end of his testimony, [Acting Director of Maintenance] states “I was sent here to fix maintenance” (Appendix A2, Page 3, line 17).

RELEVANT GUIDANCE

AFI 51-1102, Cooperation with the Office of Special Counsel, contains the following standard for Abuse of Authority, described as one of many “Terms of Art (as defined by Statue and caselaw)” published in AFI 51-1102, Attachment 1, Glossary of References and Supporting Information:

Abuse of Authority—occurs when there is an arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person

¹ ⁷ This statement contradicts the 2020 Confined Space MEP, which describes fuel maintenance in the “center fuel cell of the T-38C and the aft cell of the T-1 aircraft [sic]” (Appendix B6, Page 1). Additionally, [Acting Director of Maintenance]’s description indicates that usage of Building 51 is restricted to environmental protection for sealant cure only. This exception could very easily be documented on the annual approval and/or addendum for fuel system repair facilities, limiting the normally restricted operations that are permitted in fuel systems repair facilities to only Laughlin’s Primary Fuel System Maintenance Facility. Both documentary and testimonial evidence indicates that it is more likely than not that Laughlin intended to accomplish restricted operations in Building 51 when Building 53 was not available or overflow fuel system repair facility space was required. Pre-designating and approving Building 51 as an alternate fuel system maintenance facility eliminates the TO 1-1-3 requirement for temporary repair facilities that applicable experts initially certify the facility, in writing, and recertify the facility every 90 days.

⁸ [Acting Director of Maintenance]’s testimony references [SAV Personnel] and the SAV he performed at Laughlin on two occasions. A report of this SAV is not a part of the evidence or exhibits in the case.

or that results in personal gain or advantage to himself or to preferred other persons. The definition of abuse of authority does not contain a de minimis standard or threshold.

TO 1-1-3, *Inspection and Repair of Aircraft Integral Tanks and Fuel Cells*, does not specify an Office of Primary Responsibility.

TO 1-1-3 does not specify authority or process to waive requirements contained in the publication,⁹ with the exception of guidance in Chapter 2, paragraph 2.3, *Assumptions and Alternatives*, which states:

Some fuel tank/cell repair and inspection is accomplished without fuel or other flammable materials being present. In these cases, the MXG/CC, or equivalent, may, with coordination/concurrence from Safety, Bioenvironmental Engineering Flight (BEF) and Fire Protection Services, rule that certain requirements of this chapter may be waived. This may be done after a review of the work procedures, an assessment of the work environment, and documentation of the absence of hazards. The waiver is only applicable to requirements originating in this manual and is not extendable to requirements originating in weapons system Technical Orders (TO), Occupational Safety and Health Administration (OSHA), Air Force Occupational Safety and Health (AFOSH) STDs, Air Force Instruction (AFI) 91-203, or other directives. The requirement for a confined space entry program and permit system shall never be waived.

In the “Introduction” to TO 1-1-3 (TO 1-1-3, page xv), Paragraph 1, “Purpose” states, “This Technical Order (TO) establishes United States Air Force (USAF) policy for the maintenance of aircraft fuel tanks/cells. Included in this TO are general requirements for preparation of an aircraft for fuel systems maintenance and inspection. The requirements of this TO are applicable to all aircraft in the Air Force (AF) inventory. Procedures requiring special equipment, facilities or extraordinary safety precautions are not included in this manual.”

Additionally, the “Introduction” to TO 1-1-3 states that the Introduction section of the TO “Provides authority for the publication of the TO and summarizes each chapter” (TO 1-1-3, Page xv). Chapter 3 of TO 1-1-3 “Provides a brief description of the areas and facilities required for fuel systems repair. This includes primary, alternate, temporary repair facilities and open repair areas” (TO 1-1-3, Page xv).

The “Safety Summary,” Paragraph 1, “General Safety Instructions” states:

⁹ TO 00-5-1, *AF Technical Order System*, does specify the “approval and waiver authority for this technical manual” on the cover page for the publication. Additionally, TO 00-5-1 provides guidance for requesting a waiver to TO 00-5-1. While the guidance is specific to “TO system policies and procedures, to include TMSS,” the process includes the use of the AF Form 679, *Air Force Publication Compliance Item Waiver Request/Approval*, which is also commonly used to document waivers to other Air Force guidance and publications, including Air Force Instructions.

This manual describes physical and/or chemical processes which may cause injury or death to personnel, or damage to equipment, if not properly followed. This safety summary includes general safety precautions and instructions that must be understood and applied during operation and maintenance to ensure personnel safety and protection of equipment. Prior to performing any specific task, the WARNINGS, CAUTIONS, and NOTES included in that task shall be reviewed and understood.

TO 1-1-3, Chapter 1, Paragraph 1.5.2.1 includes “MXG/CC – Production Division Chief Responsibilities”:

- Shall appoint an Entry Authority.
- Shall be responsible for safe execution of fuel tank/cell entries.
- Shall review, approve and sign the Master Entry Plan (MEP), annually
- **Shall designate fuel systems repair facilities/areas**¹⁰
- Shall ensure availability and compliance with TOs and/or operating instructions for equipment used in fuel systems repair facilities/areas.
- Shall ensure compliance with safety, health and environmental instructions/directives.
- Should coordinate on material and equipment substitutions.
- May, when required, substitute non-2A6X4 personnel for the Equipment Monitor/Runner.
- May, when required, coordinate on waiver of certain safety and health requirements.

TO 1-1-3, Chapter 2, Paragraph 2.8.3 provides guidance for the MEP, or Master Entry Plan.¹¹ Paragraph 2.8.3.1.f states:

*f. Shall list approved fuel systems repair facilities/areas (primary, alternate, open and temporary) and specific conditions for use deemed necessary by MXG/CC or equivalent, Safety, BEF and Fire Protection Services.*¹²

TO 1-1-3, Chapter 3, Paragraph 3.1, “General” states:

The use of segregated repair facilities/areas for fuel systems repair is essential for safe and efficient operations. These repair facilities provide a safe, controlled environment and optimum climatic conditions that contribute immensely towards ensuring quality fuel systems repair. The repair facilities/areas described in this chapter provide necessary protection for both the aircraft and personnel from a variety of hazards.

¹⁰ Bold, underline is author’s emphasis.

¹¹ Most of Paragraph 2.8.3. and its sub-paragraphs describe requirements associated with entries into confined spaces rather than generic fuel systems repair. It is notable that the paragraph describing the MEP is subordinate to Paragraph 2.8 CONFINED SPACE FUEL TANK/CELL ENTRY.

¹² “Specific conditions for use” allows the MXG/CC to be specific about expectations for how the fuel systems repair facilities will be used.

TO 1-1-3, Chapter 3, Paragraph 3.1.2, “Repair Facility/Area Approval,” directs the MXG/CC to pre-designate and approve all fuel systems repair facilities with specific coordination from multiple agencies/offices. Paragraph 3.1.3, “Repair Facility/Area Definitions,” describes the process to pre-designate and approve repair facilities/areas for openfuel tank/cell repair, specifically mandating that “*All approved fuel systems repair facilities/areas shall be identified in the Master Entry Plan (MEP)*” and further mandates that “*Temporary repair facilities, if required, shall be listed on a separate Addendum so the certification/re-certification can be routed and approved in accordance with item 1 in Paragraph 3.2.5.*”

TO 1-1-3, Chapter 3, Paragraphs 3.1.2.2, 3.1.2.3, 3.1.2.4, and 3.1.2.5 contain definitionfor primary and alternate repair facilities, open (outdoor) repair areas, and temporary repair facilities.

3.1.3.1 Primary Repair Facility. A primary repair facility is one that was specifically built, or modified, for use as an aircraft fuel systems repair hangar. It is the recommended, or preferred, location to perform open fuel tank/cell repair and shall beused when in a safe condition and not occupied by aircraft maintenance actions. As a minimum, the facility must meet the requirements as addressed in Paragraph 3.2.1.

*3.1.3.2 Alternate Repair Facility. An alternate repair facility is one that was specificallybuilt, or modified, for use as an aircraft fuel systems repair hangar. **Essentially, it is a second primary or “overflow” repair facility.** If the unit has a designated alternate repair facility, it is the next recommended, or preferred, location to perform open fuel tank/cell repair; it should be used when the primary repair facility is unavailable. **As a minimum, this facility shall meet the same requirments as a primary repair facility.**¹³*

3.1.3.3 Open (Outside) Repair Area. An open repair area is typically an aircraft parkingspot on or near the flight line designated for fuel systems repair. When possible, the areashould be segregated from the main flight line operations to ensure maximum safety. Theuse of an outside repair area is highly dependent on current/forecasted weather conditions, available authorized portable equipment and complexity/duration of the maintenance task. This area shall meet the requirements set forth by the local agencies addressed in Paragraph 3.1.2.

3.1.3.4 Temporary Repair Facility. A temporary repair facility is one that was NOT specifically built, or modified, for use as an aircraft fuel systems repair hangar but, hasbeen approved and certified for use in accordance with Paragraph 3.2.5. Under normalcircumstances, the use of a temporary facility shall be considered as a last resort.

TO 1-1-3, Chapter 3, Paragraph 3.2.5 provides guidance for Temporary Repair Facilities,including

¹³ Bold, underline is author’s emphasis.

requirements for initial certification, which specifically requires written proof of initial certification via Addendum to the MEP, and requirements for recurring 90-day recertification.¹⁴

TO 1-1-3 includes a Sample Master Entry Plan (MEP)(see TO 1-1-3, Figure 2-1, Sample MEP, Pages 2-19 to 2-24).^{15 16 17}

ANALYSIS

AETC/IG provides the following analysis for the application of the Abuse of Authority standard from AFI 51-1102. The standard contains multiple elements which must be satisfied in order for an allegation to be substantiated.

1. Was there an exercise of power by a federal official or employee? YES.

A preponderance of the evidence supports that [Acting Director of Maintenance], who was a federal official, did exercise power by approving the use of Building 51 as an alternate fuel system repair facility when he digitally signed Laughlin's 2020 Confined Space Master Entry Plan (MEP).

2. Was the exercise of power arbitrary or capricious? YES.

While the 47 FTW Maintenance Directorate followed a process, one that had been previously utilized with similar results, the process that was utilized was incorrect, violated

¹⁴ The specificity of these requirements ensures the risk associated with executing fuel systems repairs in facilities not meeting requirements to be designated primary or alternate fuel systems repair facilities is addressed at the appropriate level. Not following the requirements of TO 1-1-3 threatens the safety of personnel conducting fuel systems repair, by exposing individual employees to risk that is not correctly managed by the designated approval authority.

¹⁵ The formatting of this sample MEP is inconsistent with AFH 33-337 for official memorandums and may be misleading as it jumps from a paragraph labeled as "6. FUEL SYSTEM REPAIR TASKS AND EXPECTED TANK CONDITIONS" to "SECTION 9. DEPLOYMENT AND READINESS PROCEDURES."

¹⁶ The available history of annual Master Entry Plans from Laughlin is similar to the sample contained in TO 1-1-3. However, the sample suggests to "list all fuel system repair facilities pre-designated and approved for use" as an independent paragraph. Laughlin's MEPs consistently incorporate this information into the first paragraph, which is labeled "ENTRY AUTHORITY AND DESIGNATED ALTERNATES." The TO 1-1-3 Sample MEP uses a paragraph with the same title to specifically enunciate individuals authorized to issue Field Permits for entry into fuel tanks/cells considered to be confined spaces, which is independent from designating and approving fuel system repair facilities.

¹⁷ My observation is that the Sample MEP emphasizes confined entry space operations and the requirement to include pre-designated and approved fuel system repair facilities can easily be missed. Additionally, the Sample MEP includes no mention of addendums for Temporary Repair Facilities. However, the Sample MEP does include "SECTION II. AMENDMENT PROCEDURES" which discusses "Field Permits for tank/cell entries not consistent with this MEP." However, the Sample MEP does include "SECTION II. AMENDMENT PROCEDURES" which discusses "Field Permits for tank/cell entries not consistent with this MEP."

guidance provided by TO 1-1-3 to correctly approve fuel system repair facilities, and resulted in the incorrect designation of Building 51 as an alternate facility. Because TO 1-1-3 provides guidance to correctly approve fuel system repair facilities, an incorrect approval is, by definition, arbitrary because it does not, and cannot, follow established guidance, therefore exceeding the de minimus standard or threshold included in the AFI 51-1102 Abuse of Authority standard.

For an allegation of Abuse of Authority to be substantiated, the remainder of the standard requires that the exercise of authority adversely affect the rights of any person **OR**¹⁸ result in personal gain or advantage to himself or to preferred other persons. The two parts of this element are addressed separately below. Either part of this element, when combined with elements 1 and 2 above, may cause the entire standard to be met.

3a. Did the exercise of power adversely affect the rights of any person? YES.

There is a distinction between adversely affecting any person and adversely affecting the rights of any person. In this case, [Acting Director of Maintenance]'s arbitrary exercise of power affected the rights of, among others, fuel systems maintenance personnel to expect that their work facilities had been properly certified, pre-designated, and approved IAW TO 1-1-3. This expectation is captured in the first paragraph of TO 1-1-3, Chapter 3, *Aircraft Fuel Systems Repair Facilities and Areas*, which specifically includes language regarding safe operations, safe environments, and protecting aircraft and personnel. While [Acting Director of Maintenance], as the Director of Maintenance and specified fuels systems repair facilities approving official, may be considered the "risk acceptance" official for fuel systems repair facilities, not following guidance from TO 1-1-3 means personnel, including fuels systems maintenance personnel, multiple levels of maintenance supervision, designated certification experts, and even the designated approval authority are all accepting risk without proper identification, mitigation, and acceptance at the appropriate level. Because the 2020 Confined Space MEP indicates approval for Building 51 to be utilized as an alternate fuel system repair facility, and because TO 1-1-3 describes alternate fuel system repair facilities as "second primary" facilities, it is not unreasonable for personnel to expect that unrestricted fuel systems repair has been authorized in Building 51, when the risk of unrestricted fuel systems repair in Building 51 requires a higher degree of risk mitigation. More concerning, approving the 2020 Confined Space MEP effectively, and without appropriate authority, explanation, process, or mitigation, vacated TO 1-1-3 requirements to correctly certify and more periodically recertify Building 51. Building 51, as stated in the Report of Investigation, can only be approved as a temporary fuel system repair facility, which requires a higher degree of monitoring by certification and approval authorities.¹⁹

¹⁸ Bold, underline is author's emphasis.

¹⁹ Additionally, the Safety Summary of TO 1-1-3, specifically states "This manual describes physical and/or chemical processes which may cause injury or death to personnel, or damage to equipment, if not properly followed." TO 1-1-3 also describes the process to correctly pre-designate and approve all fuel system repair facilities and to certify and approve temporary repair facilities via addendum to the MEP. This may be considered a physical process indirectly related to hands-on fuel systems maintenance. Summarizing the TO 1-1-3 Safety Summary, not following, or in this case incorrectly following, the process unknowingly increases risk.

3b. Did the exercise of power result in personal gain or advantage to the federal official or employee or to preferred other persons? NO.

In the Report of Investigation, the IO concluded that “the designation and utilization of building 51 as an alternate fuels maintenance facility resulted in personal gain or advantage to [Acting Director of Maintenance] as the resolution of maintenance issues that had been identified during the 19 AF January 2020 assessment reflected favorably on him as indicated by the 47 FTW/CC testimony(Appendix A5, page 4, Lines 31-45)” (Report of Investigation, Page 20).

However, in this case, any favorable reflection offered by the 47 FTW/CC is most connected with overcoming “problems that were stopping maintenance production” due to the significance of maintenance production on the wing’s substantial flying operation. Failing to provide the requisite number of mission-capable aircraft to the daily flying schedule immediately creates a sortie deficit, which in turn causes an immediate demand for additional daily sorties. This negatively reinforcing cycle of slipping production ultimately leads to a choice between deliberate underproduction and making every effort to increase production. This choice is roughly equivalent to accepting failure, or taking actions to avoid failure. Taking actions to avoid failure should not be construed as personal gain.

[Acting Director of Maintenance] was appointed the Acting Director of Maintenance for the 47th Flying Training Wing immediately following the January 2020 19 AF/LG assessment with intimate knowledge of the results and report for that assessment, to include 37 pages of “problems.” He stated he was sent to Laughlin to “fix” aircraft maintenance. A preponderance of the evidence indicates a clear expectation for [Acting Director of Maintenance] to fix problems that were preventing the Maintenance Directorate from providing an adequate number of requisite mission-capable aircraft to the daily flying schedule. Ultimately, he was initially charged to remedy failures within the Maintenance Directorate.

Because fuel systems maintenance had been identified as a significant problem area, described as a bottleneck, [Acting Director of Maintenance] was confronted with accepting the current situation “as is,” which would have continued to prolong the sustained under-delivery of requisite aircraft to the daily flying schedule, or taking actions to remedy the problem. [Acting Director of Maintenance] chose to take action, which should be considered a reasonable choice because the alternative, continuing the status quo, was not acceptable. The solution to identify additional facilities for fuel systems repair, which by its nature expanded capacity and increased throughput, was made based on mission requirements and not to enhance [Acting Director of Maintenance]’s standing or status. Working to prevent mission failure, and making reasonable decisions in an effort to prevent mission failure, should not be construed as personal gain.

However, as previously stated, TO 1-1-3 provides a process for specified authorities to designate and approve an acceptable facility to accommodate fuel systems repair. Had [Acting Director of Maintenance] correctly designated Building 51 as a temporary repair facility, or

provided more guidance for restricted use of Building 51 regarding fuel systems repairs, he would have ended up achieving a similar outcome that safely and correctly solved the known problem with fuel systems maintenance.

CONCLUSION AND FINDING

Because [Acting Director of Maintenance] , as a federal official, exercised power in an arbitrary manner and that exercise of power compromised the right of fuel systems repair and other maintenance personnel to a safe work environment validated by periodic assessments, Allegation 2b, regarding building 51, that the action(s) and/or failure(s) to at by [Acting Director of Maintenance], Acting Director of Maintenance, constituted an abuse of authority in accordance with Air Force Instruction 51-1102, *Cooperation with the Office of Special Counsel*, is SUBSTANTIATED.

Inspector General