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## OSC Disagrees With Army Finding of Insufficient Evidence to Discipline Official in Infection Control Analyst Retaliation Case

FOR IMMEDIATE RELEASE

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The U.S. Office of Special Counsel (OSC) today expressed alarm that the U.S. Army has rejected OSC's recommendation of disciplinary action after OSC found that a supervisor retaliated against a civilian infection control analyst for disclosing violations of infection control policies at Womack Army Medical Center in Fort Bragg, North Carolina. The whistleblower, Teresa Gilbert, disclosed violations of infection control policies and regulations that created a substantial threat to the health and safety of members of the military and their family members treated at the hospital. Her disclosures resulted in improved hospital conditions and significant disciplinary action against senior leaders at Womack. OSC [named](#) Ms. Gilbert its 2016 Public Servant of the Year.

In return for these disclosures, OSC concluded that Ms. Gilbert's first-line supervisor retaliated against her by restricting her access to infection control practices by excluding her from meetings, eliminating her access to patient charts, limiting her to half-days in the workplace, detailing her out of her unit, and seeking her removal. Federal law prohibits employee retaliation for protected whistleblowing, one of several prohibited personnel practices that OSC investigates and enforces.

OSC's investigation found evidence of a pattern of retaliatory personnel actions in this case, and OSC sought disciplinary action from the Army against the supervisor for committing prohibited personnel practices. However, the Army told OSC "it does not agree that there is sufficient evidence to support a finding" that the supervisor committed a prohibited personnel practice and retaliated against Ms. Gilbert. The Army "acknowledges that certain actions in this case did not conform to Army standards and best practices. That is why the Army has already settled all claims related to this matter with Ms. Gilbert," the Army wrote to OSC. The Army provided no further explanation regarding its rejection of OSC's 14-page prohibited personnel practice [report](#).

In many cases, OSC has the authority to pursue disciplinary action with the Merit Systems Protection Board against employees who commit prohibited personnel practices. However, OSC's authority is limited concerning disciplinary actions taken against a uniformed service member, such as Ms. Gilbert's supervisor. OSC has statutory authority to recommend disciplinary action based on its investigative findings, but the military service has complete discretion as to whether it will discipline a uniformed officer for retaliating against a whistleblower.

Special Counsel Henry J. Kerner said the Army should weigh the evidence and reconsider its decision that evidence is insufficient to prove prohibited whistleblower retaliation in the Gilbert case.

“Ms. Gilbert’s disclosures led to improvements that likely saved the lives of soldiers at one of the Army’s largest hospitals,” Kerner said. “She put her livelihood on the line to come forward, and in return was threatened with removal. Her bravery deserves full justice, not partial measures. That includes achieving accountability from those directly involved in trying to shut her out. I urge the Army to reconsider its findings exonerating Ms. Gilbert’s supervisor from whistleblower retaliation and take appropriate disciplinary action.”

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*The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC’s primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. For more information, please visit our website at [www.osc.gov](http://www.osc.gov).*