



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

August 10, 2015

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

Re: OSC File No. DI-14-1099

Dear Mr. President:

Pursuant to my duties as Special Counsel, enclosed please find reports of wrongdoing at Dover Air Force Base (Dover AFB) based on disclosures made to the Office of Special Counsel (OSC) and referred the Department of the Air Force (Air Force) for investigation. OSC has reviewed the report and, in accordance with 5 U.S.C. § 1213(e), provides the following summary of the allegations and our findings.

The whistleblower, who chose to remain anonymous, disclosed to OSC that civilian police officers of the 436th Security Forces Squadron (SFS) at Dover AFB regularly falsified their time and attendance records and that a supervisory police officer knowingly approved and encouraged falsification of his subordinates' time and attendance records. The Air Force substantiated the whistleblower's allegations, finding that three non-supervisory civilian police officers falsified their time and attendance records, and that the supervisory civilian police officer knowingly granted unauthorized compensatory time and falsified time and attendance records for his employees.

On April 11, 2014, OSC referred the whistleblower's allegations to Secretary of the Air Force Deborah Lee James to conduct an investigation pursuant to 5 U.S.C. § 1213(g)(2). The Secretary delegated the authority to review and sign a report of investigation to Principal Deputy General Counsel of the Air Force Joseph M. McDade. OSC's referral letter was forwarded for investigation, through the Air Force Inspector General, to the Air Mobility Command Inspector General. On September 24, 2014, Mr. McDade submitted the agency's report to this office. On April 20, 2015, upon OSC's request, David L. Thomas, assistant deputy general counsel, submitted a supplemental report detailing disciplinary action the Air Force took as a result of the investigation. The whistleblower commented on the Air Force's findings. I am now transmitting the reports and the whistleblower's comments to you.¹

¹ OSC is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). These allegations were transmitted to the Secretary of the Air Force, as head of her agency, pursuant to 5 U.S.C. § 1213(g)(2). This statutory provision mandates that, within a reasonable time, the Secretary inform me in writing what action the agency has taken or is taking in regard to this matter, and when that action will be completed. Upon receipt, I review the agency report to determine whether it

The President
August 10, 2015
Page 2 of 3

According to the whistleblower, at least three SFS civilian police officers regularly falsified their time and attendance records, claiming more hours than they worked, and their supervisor, Officer John Molitor, knowingly approved and encouraged this wrongdoing. For example, the whistleblower stated that frequently throughout 2012, Officer Alvin Hunter was not present for his shifts on Saturdays and/or Sundays even though he was signed in on the daily roster. The whistleblower claimed that Officer Hunter missed approximately one shift every weekend throughout the year and explained that only a supervisor can sign an officer into the daily log. The whistleblower also alleged that on approximately fifteen occasions in January and February 2013, Officer Aaron Day left work approximately one hour early but did not record his early departure on his time sheet, billing the government for time not worked.

According to the whistleblower, Officer Molitor supervised Officers Hunter and Day at the time of the alleged misconduct and was aware of the time and attendance fraud but took no action. In fact, the whistleblower alleged that Officer Molitor not only permitted but actively supported time and attendance fraud by his subordinates. For instance, the whistleblower disclosed that Officer Molitor was the supervisor who signed Officer Hunter in on the daily log on days when Officer Hunter was not present. The whistleblower also alleged that on multiple occasions Officer Molitor told one of his subordinate officers that he was granting her compensatory time, despite knowing that compensatory time is not available for civilian police officers of the SFS.

The investigation substantiated that three non-supervisory civilian police officers, Officers Alvin Hunter, Aaron Day and Michael Marsters, were absent from duty without taking leave and failed to ensure the accuracy and integrity of their time and attendance records in violation of regulations. In addition, the investigation found that a supervisory civilian police officer, Officer Molitor, offered his subordinate police officers unauthorized compensatory time off and subsequently failed to ensure that all entries for overtime earned and compensatory time taken off were properly approved and documented. Officer Molitor was also found to have knowingly falsified time and attendance records for his employees and abused his authority in granting unauthorized compensatory time off. All four officers were also found to have engaged in dishonest conduct in violation of employee conduct regulations.

The Air Force advised that as a result of the investigation, the wing commander issued a policy memorandum emphasizing the importance of accurate and timely accounting of time and attendance records, as well as setting forth the responsibilities of both employees and supervisors with regard to time and attendance, the time keeping system and accountability. Additionally, the SFS commander scheduled training on both time and

contains all of the information required by statute. Additionally, I am required to inform the whistleblower of the report, pursuant to 5 U.S.C. § 1213(g)(2), and may provide a copy of the report to the whistleblower as well as provide the whistleblower with the opportunity to comment on the report. Thereafter, I may transmit the report, the whistleblower's comments, and my comments or recommendations to you and the appropriate oversight committees in the Senate and House of Representatives, as I have done here.

The President
August 10, 2015
Page 3 of 3

attendance requirements and the disciplinary process. The Air Force also stated that the SFS would continue work already begun to more fully integrate the civilian and military forces which would align working schedules, address significant morale issues, and improve time and attendance accountability. Finally, while no disciplinary action was taken against Officers Hunter and Marsters because they are no longer employed by the Air Force, Officer Molitor was issued a notice of proposed removal from service and Officer Day received a verbal counseling regarding the taking of undocumented leave or compensatory time.

Based on my review of the disclosure, agency reports, and the whistleblower's comments, I have determined that the Air Force's reports contain all of the statutorily required information and that the findings are reasonable. Additionally, I note that the agency took actions to deter future wrongdoing, which include updated guidance and significant disciplinary action against the employees who violated the law.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the unredacted agency reports to the Chairmen and Ranking Members of the Senate and House Committees on Armed Services. The redacted reports identify Air Force employees and witnesses, other than the subjects of the investigation, by title only and contain certain language substituted to maintain the confidentiality of the parties involved.² I have also filed a copy of the redacted report in our public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,



Carolyn N. Lerner

Enclosure

² The Air Force provided OSC with reports containing employee names (enclosed), and redacted reports that substituted titles for the names of employees other than the subjects of the investigation. The Air Force cited exemptions 6 and 7(c) of the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(6)) as the basis for its redactions to the reports produced in response to 5 U.S.C. § 1213, and requested that OSC post the redacted version of the reports in our public file. OSC objects to the Air Force's use of FOIA to remove these names because under FOIA, such withholding of information is discretionary, not mandatory, and therefore does not fit within the exceptions to disclosure under 5 U.S.C. § 1219(b). Nevertheless, OSC has agreed to post the redacted versions as an accommodation. Additionally, please note that the black-out redactions on pages 31, 67, and 68 were made by OSC to protect the privacy interests of OSC complainants in accordance with 5 U.S.C. § 1212(g)(1).